

Selectmen's Meeting Minutes

Tuesday, September 19, 2006

Present: Selectman Bowles, Maxfield, and Ives.

Also present: Road Agent David Rice, Fire Chief Jeff Burr, and Emergency Management Assistant Director Greg Wells.

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

- I. Selectman Maxfield moved to accept the Selectmen's Meeting Minutes of Tuesday, September 5, 2006 as presented. Seconded by Selectman Ives. All in favor. Motion carried. Chairman Bowles stated due to the Primary Election, the Selectmen's Meeting for Tuesday, September 12, 2006 had been cancelled.
- II. The Board met with Road Agent David Rice.
 - a. Mr. Rice advised the Board that Alan Minery was back mowing roadsides in Town.
 - b. Mr. Rice stated the catch basins are being cleaned out.
 - c. Mr. Rice advised the Board the new truck for the Highway Department is in.
 - d. Mr. Rice stated the concrete floor has been poured at the Cate Van Building. He also discussed the road in front of the building and demolition area. Chairman Bowles discussed the lumber for the building.
 - e. Selectman Ives discussed Berry Road by Rob Hamilton's property. Discussion ensued regarding setting a meeting up with Engineer Judy Houston.
 - f. Mr. Rice said grading and thrashing brush would be ongoing.
 - g. Chairman Bowles thanked the Highway Department for all the work they did getting the Town Hall ready for last Tuesday's Primary Election.

III. The Board met with Fire Chief Jeff Burr.

- a. Chief Burr read the following memo into the record:

Dear Sirs:

Item V of the September 5, 2006 meeting you were advised that I did not follow the Town of Loudon Personnel Policy, when I issued a two-week suspension to Robert L. Phillips. And acted on what you were quoted in the Town of Loudon Safety Program and Policies.

In Robert L. Phillips letter, he states that I did not follow the procedures in the **Town of Loudon Safety Program and Policies** pages 109 thru 112. I would like to point out that it is the disciplinary procedures for the Town of Loudon Safety Program

and Policies Manual Revised October 11, 2005, and not for the **Personnel Policies Manual for the Town of Loudon Revised on April 25, 2006**, which also states on the cover “This document supersedes all personnel policies previously established or approved by the Town of Loudon.”

I have taken these manuals to Barry L. Cox, personnel services consultant for the Local Government Center. He reviewed the documents and he has confirmed that these are two separate documents and that they do not reference each other.

I did follow the Town of Loudon Personnel Manual in regards to the suspension of Robert L. Phillips, not the Town of Loudon Safety Program and Policies.

The Town of Loudon Safety Program and Policies document is to provide a safe working environment for all of the Town’s employees and not for Personnel issues, as is the **Personnel Policies Manual for the Town of Loudon**.

- b. Chief Burr stated he was approached by Paul Darbyshire Associates regarding a proposed elderly housing complex in Canterbury on Route 106. Chief Burr stated that the Town of Loudon Fire Department responds to all emergency calls along Route 106 in Canterbury. He said it would be a 60-unit complex for individuals over the age of 65. Chief Burr said he felt the Loudon Selectmen should get together with the Canterbury Selectmen and discuss this issue relative to impact fees. Ambulance transports were also discussed. The Board stated they would contact Canterbury regarding this issue.
 - c. Selectman Ives said he felt that after listening to Chief Burr’s letter, he feels that in retrospect he was in error by making the motion to overturn the suspension. He stated he was looking at the Safety Program and Policies that has a disciplinary form included and Chief Burr was going by the Personnel Policy. Chairman Bowles said the Board had discussed at the September 5, 2006 meeting that they had gotten the two policy manuals mixed up and that they would be researching things more carefully in the future. Chairman Bowles said he hopes this issue can now be laid to rest and things can get back to normal.
 - d. Selectman Maxfield asked Chief Burr about the \$600.00 grant money that is included in with correspondence. Chief Burr stated the money is from the Forestry Grant. The Fire Department purchased some safety gear through the grant program at a cost of \$1,200.00 and the grant money is reimbursement for \$600.00 as it was a 50/50 grant.
- IV. The Board met with Emergency Management Assistant Director Greg Wells.
- a. Mr. Wells said the Emergency Management Team wanted to express their appreciation to the State Bureau of Emergency Management as they worked together this past week. He went on to say the State Bureau of Emergency Management has offered the Town of Loudon

- many valuable resources. Selectman Maxfield thanked Loudon's Emergency Management Team for all their efforts and hard work.
- V. The Board began their review of weekly correspondence.
- a. The Board received a memo from Office Manager Jean Lee. Chairman Bowles discussed the MS-1 extension. The Board will decide on an extension date once the October 1, 2006 date gets closer. The Loudon Young at Heart has requested the Board send a representative to their November meeting to discuss Elderly Exemptions and programs offered to Loudon's Elderly Residents. Chairman Bowles stated the Police Chief and Fire Chief are being asked to attend also. The Selectmen will decide who will be at the November 14, 2006 Young at Heart meeting. Chairman Bowles also stated the memo included a note about the phone call Jean received from Judy Houston regarding the Landfill Post Closure report that was filed with DES several months ago as well as Berry Road issues.
 - b. The Board received weekly expenditure reports for review.
 - c. The Board received a letter from the Louis Berger Group regarding groundwater monitoring.
 - d. The Board received legal correspondence from Attorney Bart Mayer.
 - e. Selectman Ives moved to forward past due ambulance bill account #26308 in the amount of \$215.02 to collections. Seconded by Selectman Maxfield. All in favor. Motion carried.
 - f. Selectman Maxfield moved to approve a Petition and Pole License for Verizon New England, Inc., and Public Service of NH for a replacement pole, #9AAZAJ on Foster Road. Seconded by Selectman Ives. All in favor. Motion carried.
 - g. The Board discussed the Flag to be displayed at the Town Hall.
- VI. The Board met with Paulette Rouse of Cross Brook Road to discuss the status of Cross Brook Bridge replacement.
- a. Mrs. Rouse stated she has spoken with Chairman Bowles on at least a monthly basis to keep informed about the status of the road. She said that when she spoke with Chairman Bowles last Friday she was concerned to learn there was a holdup on the project due to easement issues. Selectman Maxfield said the easement issue on Cross Brook Road is being taken care of this evening.
 - b. Selectman Maxfield advised Mrs. Rouse that the Selectmen would be forwarding the following letter to each resident on Cross Brook Road:

“We wish to thank you for your patience and understanding as we move forward for final repair of the bridge. Please understand that the entire engineering and contracting process was accomplished without delay. Further, all state permits were processed under the status of “emergency assistance.” The contractor for the bridge replacement has until December 1, 2006 to have the concrete box culvert, and road fully repaired. The contractor is required to pay a substantial penalty for each day

beyond December 1st. We are confident that the bridge will be completed on, or before this date.

In the event of snow before December 1st, we pledge to plow and sand Wiggins Road for a high state of travel. We regret that this secondary road must be used. The Town has spent approximately \$80,000.00 on the Class VI Road for temporary travel.

Also, we worked with the Merrimack Valley School District to ensure that a “small” school bus could travel to Wiggins Road to your community.

Again, we apologize for the inconvenience this situation has created. If you have questions, please call the Town Office at 798-4541, or your Selectmen.”

Selectman Maxfield said the Board has been frustrated just as the residents have been. He stated the permitting process while under emergency status was still slow. The Engineer had to draw up the plans, which had to be submitted to the State for approval. Once they came back, the contractor had to agree to the design structure and now we are waiting for the pre-cast culvert. Selectman Maxfield said it is a three-sided rectangle with footings and wing walls of 8” cement. The previous structure was made of large boulders. He stated this structure would infringe less on both the properties that the Town has obtained easements for. Selectman Maxfield said the Board appreciates the patience of the residents. He discussed the Class VI road and stated that the Town will maintain Wiggins Road until Cross Brook Road is useable again.

- c. Mrs. Rouse asked the Board about the hold up on the easement for one of the property owners. She said it is upsetting that the landowners who are holding up the progress do not live on the side of Cross Brook Road that has been affected by the break. Mrs. Rouse asked if the owners would be financially benefiting from the terms of the easement. Selectman Maxfield stated they would. He went on to say the landowners feel their property has value and by giving the Town the easement, they will be losing some of the usefulness. Chairman Bowles stated that had the Board known the landowners were not going to sign the easement in the beginning of the process, they would have taken a different route to obtain the easement. Now due to time constraints, the Selectmen have been advised by Town Counsel and the Engineers to negotiate and get the easement signed and recorded. Chairman Bowles stated the five other landowners that the Town has gotten the easements on have not been compensated. Mrs. Rouse asked if it is public record to know who the landowners were that had not signed the easement without compensation. Selectman Maxfield stated that since it has been discussed publicly and the check has been processed he thinks it is public information. Rachel Forcier of Cross Brook Road stated the easements are public record. She asked the

Board to state the names of the landowners for the record. The Board said until they check with Town Counsel they would rather not publicly state the landowners names and jeopardize the project. Mrs. Rouse asked the Board if she could request that the names be made public at a later meeting. Selectman Maxfield said the Board would check with Town Counsel. He said there are only two easements for the Cross Brook Road project. Angela Spradling of Cross Brook Road asked if the amount of the compensation would be public information. Selectman Maxfield stated the Board would check with Town Counsel. Chairman Bowles stated that until the Board has spoken with Town Counsel, they would not be able to discuss this issue.

- d. Mrs. Rouse asked if the Selectman have considered adjusting the assessments for the residents on Cross Brook Road that have been affected by the road issues. She stated that lots on Cross Brook Road are assessed at a higher value than lots on other roads in Town and wanted to know if the Board would be making a good faith gesture by reducing the assessments. Mrs. Rouse also asked if the Board could explain the \$80,000.00 cost associated with Wiggins Road. Chairman Bowles stated he did not know where the \$80,000.00 figure came from. Selectman Maxfield stated he had gotten that figure from Road Agent David Rice. He stated two culverts have been installed, a lot of gravel has been placed, grading, manpower, etc. Discussion ensued regarding money spent on the project to date and the Board stated they would have to review the files in order to be more specific. Mrs. Rouse asked the Board to comment on her first question about the property assessments. Chairman Bowles said the Board would have to take this under consideration and check with the Assessors and Town Counsel to see what their opinions are. Mrs. Rouse stated she would feel a little bit better if they would consider it. Chairman Bowles stated this would need to be looked into. Mrs. Spradling asked if the holdup with the easement being signed would change the finish date of the project. Chairman Bowles said he did not feel it would change the date as work could take place from the other side and the Board would take the steps necessary to see that the project moves forward.
- e. Mrs. Spradling asked what happens if the landowners do not show up by 9:00 PM this evening to sign the easement. The Board said that the office would be closed and the easement would not be signed.
- f. Selectman Maxfield stated he just spoke with Road Agent David Rice on the phone and Mr. Rice confirmed that the approximate cost for Wiggins Road is \$80,000.00.
- g. Gary Nemiccolo from Cross Brook Road asked if all permits were in place so the project will be done December 1, 2006. He asked if every permit was in place at this time. Chairman Bowles stated all permits are in place except for the unsigned easement. Mr. Nemiccolo stated he feels like a fool for not profiting from signing the easement as he has been beating up his vehicles all summer traveling over Wiggins

Road. He said he could not believe that someone is profiting from all the residents misery. Mr. Nemiccolo asked if there was anything that could possibly hold up this project. Chairman Bowles stated as far as the Board is aware everything other than the easement is in place. Discussion ensued regarding the concrete structure needing 28 days to cure once it is poured. Mr. Nemiccolo asked to have the Board find out when the structure was poured and to let him know.

- h. Selectman Maxfield stated that the wording of the easement that has not been signed yet was changed a couple of times and the landowners never indicated that they would be looking for compensation so when he was talking with Mr. Nemiccolo he was not aware of the compensation issue. Selectman Ives said he was in charge of getting the easements for the Chichester Road project. Aside from out of state communication issues, he was able to obtain the easements and no one was compensated for the easements. Selectman Ives stated both bridge projects have been of high importance and everything has been expedited. Selectman Maxfield said due to the differences in the project and size, Chichester Road would probably be open earlier than Cross Brook Road. The Contractor for Chichester Road has advised the Board he feels the road should be open by Halloween.
- i. Mr. Nemiccolo asked what the plans are for snow plowing of Wiggins Road. Selectman Maxfield stated the Road Agent knows that Wiggins Road is a priority and it will be plowed and sanded.
- j. Heather Johanson of Cross Brook Road asked why the easements had to be signed when the easements were included in the property deeds. The Board stated the former engineers did not require easements unlike the new engineering firm the Town has contracted with. Mrs. Johanson stated she had spoken with Wayne Thistle and Mr. Thistle advised her that easements were included in all the deeds. Chairman Bowles stated there are no recorded easements at Merrimack County Registry for these properties but he wished there were.
- k. Mrs. Rouse asked the Board to contact the bus company and be sure that the school bus would be continuing to drive down Wiggins Road and pick up the children on Cross Brook Road if there is snow before the project is complete. Mrs. Rouse stated she felt the bus company was not planning to have to pick up the children if there is snow. Selectman Maxfield said the school bus would pick up the children and would follow the same guidelines that if the weather were too dangerous, they would cancel school.
- l. Mr. Nemiccolo asked what he was supposed to do if he slid off Wiggins Road. Chairman Bowles stated he would have to do what he would do if he slid off any road. He said the Board is advising the residents that the Town is taking steps to see that the road is maintained. Mr. Nemiccolo stated he is not convinced that the Town is going to plow and sand Wiggins Road first thing, that the road will be somewhere down the list of roads to plow.

- m. Nathan Johanson of Cross Brook Road stated he was still paying the same amount of taxes that he was paying before the bridge was washed out and wanted to know what the Board was going to do about his taxes. He feels he should be getting a tax break. Chairman Bowles stated that this discussion had taken place earlier in the evening. The Board will look into the issue. There may be RSA's that have to be followed and the Board cannot give the residents of Cross Brook Road an answer tonight. It has to be researched. Chairman Bowles went on to say that the Board has been following the RSA's and laws since the floods occurred and that is what they are going to continue doing. He stated that the Board has put in countless hours dealing with phone calls, meetings with the engineers, site walks, and meetings with the contractors and he is offended that someone would suggest that the Board does not care. He stated that there is a process the Town had to follow and if there were any way that it could have been done faster, the Board would have done it.
- n. Selectman Maxfield discussed the bridge out on Currier Road back many years ago and said that he had to take the long route to get back and forth from his home for approximately six months so he understands the situation.
- o. Mr. Nemiccolo stated he felt that maybe a consultant should have been hired for this project. The Board stated they hired The Louis Berger Group, Inc., and that they were the ones who are the experts on these types of projects. That is why they were hired.
- p. Mr. Johanson asked if the Board could assure him that his taxes would not go up because of this issue. Chairman Bowles stated the Board could not assure him of anything pertaining to his taxes, as the tax rate for the Town has not yet been set. He stated Loudon is eligible for 75% FEMA money for Cross Brook Road with 25% being covered by the Town of Loudon. Mr. Johanson asked if the 25% would be increasing the taxes. Selectman Maxfield stated DRA advised the Board they had to utilize any money in the coffers to pay the expenses of the bridge projects first. He stated the Town at last Town Meeting, voted to raise and appropriate \$175,000.00 to fix Clough Pond Road and that entire amount had to be diverted into the bridge projects. Now Clough Pond Road is not being done this year. Mr. Johanson asked if fixing Cross Brook Road is going to increase his taxes. Chairman Bowles stated that in a sense it does affect the taxes as increased costs raise the taxes. He said that by putting Clough Pond Road off a year it is more than likely going to increase the cost to that project. Fixing the bridges now should not directly affect the taxes this year. Chairman Bowles stated that by closing down some of the projects that were planned and utilizing that money that is currently in the budget the Town does not have to take the steps of bonding and borrowing money, which costs even more money.

- q. Keith Forcier of Cross Brook Road stated that while he agrees the individual property owners have rights regarding the easement, this was not the right thing to do. He stated it was based on greed and selfishness and as far as he is concerned, if the Board says they will look into the tax assessment issues that is good enough for him. It is all about doing what is right. Mr. Forcier commented that the Nemiccolos did not hesitate to sign their easement agreement with the Town because it was the right thing to do. Chairman Bowles agreed and stated that he contacted Mr. Nemiccolo and thanked him personally for his efforts in not holding up the project. He said that the Board is not use to dealing with these issues as this type of occurrence does not happen every day and they are doing the best they can. Chairman Bowles thanked the residents of Cross Brook and advised them the Board would be in contact with them regarding the findings of the tax assessment issues.
- r. Mrs. Rouse asked if the easement were not to be signed what would happen. The Board discussed that the project would move forward while the Board worked on getting the easement signed. Mrs. Rouse asked why the name of the last landowner to sign the easement could not be said on record since the names of the other landowners who have signed easements have been discussed. The Board said they are not going to state the landowners names publicly until they discuss it with Town Counsel. Discussion ensued regarding the construction process as well as the frustration of the residents who are waiting for the easement to be signed.
- s. Mr. Nemiccolo stated he felt the Board was not looking at the safety issue of Wiggins Road. Selectman Ives said he is on the Fire Department and Rescue Squad and he does take safety very seriously. Mr. Nemiccolo stated he had talked with one of the Loudon Police Officers who advised him that the Officers were instructed not to patrol Wiggins Road. The Board will look into this issue but feel that the general idea is not to increase the vehicle traffic on Wiggins Road, but if Police or Fire vehicles needed to travel the road, they would.
- t. Mr. Nemiccolo said he did not feel confident that the project has been moving forward as quickly as possible. He stated there are many other Towns that have completed their road projects and feels something else could have been done to move things along more quickly. The Board said that many roads in Town have been repaired and that Cross Brook Road is not the only road in Town that has been affected. Chichester Road has also lost the bridge and there have been very few issues with the residents of Chichester Road. Mr. Nemiccolo said he does not know how the residents on Chichester Road are getting by. Chairman Bowles stated the Chichester Road project has been under a greater scrutiny process because of State funding. Mr. Nemiccolo stated he would have called the Governor to get things moving faster.

- u. Mrs. Forcier said that she and her husband have not received any correspondence from the Town and the only information that they had been given was through their neighbors. She said she felt that if the Board had been sending out correspondence during the last five months keeping the residents of Cross Brook Road updated with any progress, it might have alleviated some of the phone calls at home and aggravation that people have been feeling.

Selectman Ives moved to adjourn the meeting at 8:00 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