

Selectmen's Meeting Minutes

Tuesday, October 5, 2004

Present: Selectman Maxfield, Kardaseski, and Bowles.

Also present: Fire Chief Jeff Burr.

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

- I. Selectman Bowles moved to approve the Selectmen's Meeting Minutes of Tuesday, September 28, 2004 as printed. Seconded by Selectman Kardaseski. All in favor. Motion carried.
- II. Chairman Maxfield stated Road Agent David Rice was not in attendance as the paving and shimming of Lower Ridge Road and Bumfagon Road had begun. Chairman Maxfield also stated the first coat of pavement has been applied to Josiah Bartlett Road. Chairman Maxfield stated that our 2004 highway paving projects have been completed.
- III. The Board met with Fire Chief Jeff Burr.
 - a. Chief Burr discussed the meeting he had with Merrimack Valley School District regarding the proposed expansion at the Loudon Elementary School.
 - b. Chief Burr stated there would be another training session scheduled for the AED machine as no one showed up for the last training.
 - c. Selectman Bowles inquired about the street numbering issue on Ricker Road. Selectman Bowles stated the Board reviewed the 911 emergency guidelines and he feels these are recommendations only, not law. He went on to say he felt, since the road frontage is on Ricker Road, the house numbers should be assigned on Ricker Road. Selectman Bowles stated the house numbers should be placed on the mailboxes on Ricker Road. He said the Fire Department could also require numbering on the driveway where it splits off, as well as numbers on each house. Selectman Bowles said he felt it would not be in the Town's best interest to name the driveway and hoped this situation would not be allowed to happen again. He said he hoped the Planning Board would take issues like this into consideration before subdivision approval is given. Chief Burr stated his only concern is he wants to avoid any confusion during an emergency situation where the driver of the emergency vehicle sees the mailbox but continues to drive on looking for the house that goes with it. Selectman Kardaseski stated one of the concerns the Board has is if the driveway is given a name, it implies it is a road and the people living there might

assume the Town is going to maintain it. She stated all three lots have frontage on Ricker Road and if all three mailboxes are very clearly numbered at the end of the driveway and numbers are at the end of each individual drive off the main portion, it shouldn't be that confusing. Chief Burr said he would do whatever the Board wanted to do. He went on to say his recommendation to name the driveway was to alleviate any confusion in hopes of not slowing down response times. Chairman Maxfield stated he agreed with the other Selectmen. Selectman Bowles urged the Fire Department to discuss these issues with the Planning Board and have them addressed in the Land Use Regulations. Discussion ensued regarding other areas in Town with this same problem.

- IV. The Board met with Janet Darling and Stephen Bennett of the Loudon Solid Waste/Recycling Committee and the Concord Regional Cooperative to discuss GAT figures for 2005.
 - a. Ms. Darling stated currently Loudon is within 5 tons of what was delivered last year. She stated that last year Loudon had delivered 4,000 tons but had estimated for 3,700 tons. When planning for this year the GAT was set at 4,200 tons. Ms. Darling said that Loudon would receive credit for the recycling figures, which will help offset the GAT. She also suggested the GAT figure for 2005 remain at the 4,200 tons. Discussion ensued regarding the recycling efforts and how the economy influences the amount of waste received at the Transfer Station. Steve Bennett stated he agreed with leaving the GAT at 4,200 tons. Ms. Darling stated the current tipping fee is \$37.15 and she will not know what the new tipping fee will be until after November. Discussion ensued regarding Loudon's tonnage history.
 - b. Chairman Maxfield thanked Ms. Darling for her hard work and years of dedication to the Town. Selectman Kardaseski moved to appoint Stephen A. Bennett to fill out Janet Darling's term, which was originally December 2001 through November 2004, and beginning December 2004 through November 2007 appoint Stephen A. Bennett as Loudon's representative to the Cooperative and David Rice as the alternate to the Cooperative. Seconded by Selectman Bowles. All in favor. Motion carried.
- V. The Board began their review of weekly correspondence.
 - a. Chairman Maxfield discussed his conversation with Scott Weden of NH Property Liability Trust relative to the new labor laws. He stated Mr. Weden referred him to Attorney Jennifer Moeckel of the Employment Law Hotline for labor law information. Attorney Moeckel advised Chairman Maxfield the Board would have thirty minutes of free service relative to the new labor standards and then advised Chairman Maxfield he had already used up ten of the thirty minutes. Chairman Maxfield went on to say if the Board wanted to meet with Attorney Moeckel he could contact Mr. Weden to request an extension of the thirty minutes. If approved, the fees for this service would be covered by the NH Property

Liability Trust. Selectman Kardaseski and Bowles agreed they would like to meet with the attorney and suggested forwarding a copy of Bob Fiske's contract for her to review before the meeting. The Board agreed that a meeting will be scheduled to meet with Attorney Moeckel and Bob Fiske will be advised of the date and time so he can attend.

- b. Chairman Maxfield discussed the sprinkler system shut-off at the Staniels Road ball field. He stated the Road Agent would need to purchase a gauge for the compressor and it would be charged to the Recreation Department. Mr. Rice will meet with Mike O'Brien of LYAA and the contractor who installed the irrigation system. Together, they will winterize the system.
- c. Chairman Maxfield provided the Board with a memo regarding RSA 95:1. Chairman Maxfield asked Tom McCue who would represent the Town if the Loudon Communications Council were to be sued, as well as if the Town had voted to make the LCC a permanent organization of the Town, does it mean it must always be a permanent organization of the Town? Mr. McCue discussed the history of the LCC and stated he is in the process of researching the question of it being a permanent organization of the Town. Mr. McCue stated the LCC is a separate legal entity. It is a NH non-profit corporation. If somebody sues the LCC, they are not necessarily suing the Town of Loudon. He went on to say that to maintain the 501(c)3 status, 1/3 of support has to come from a government entity. Chairman Maxfield read the following into the record at the request of Selectman Kardaseski.

“Reference Communications Council. The Ledger layout contract was put out to open competitive bids. No Public Official irregularities. Recommended that this permanent Town of Loudon Governmental Organization receive an annual Town audit. Reference Old Home Day Committee. No documentation has been discovered to determine if this Committee is governmental or private. Therefore, no Public Official irregularities can be established. None assumed. Committee President David Rice does not know if the Committee is governmental or private. He feels certain that the Committee has its own By Laws, and is searching to locate a copy. However, By Laws will not answer the question of governmental versus private. The Cate Van, Historical Society, and Conservation Commission have By Laws, receive donations, and have their own accounts. They are permanent governmental organizations.”

Selectman Kardaseski read the following into the minutes: “Last week, Chairman Maxfield made some very serious allegations. He accused me of misusing my position as a Selectman and having a conflict of interest because I do the layout of the Loudon Ledger and the Loudon Old Home Day book. His remarks were a personal attack that served absolutely no purpose except to assassinate my character. Chairman Maxfield had reported allegations from unnamed persons who appear to have their own

agenda and, on his own, proceeded to “investigate” these allegations. In order to further an agenda, he went directly to the town’s attorney rather than speaking to me or Selectman Bowles. If Chairman Maxfield had “investigated” thoroughly he would not have had to waste taxpayer’s money on unnecessary attorney’s fees. He would have discovered that the Loudon Communications Council had in fact put the Ledger out to bid — as required. He would have discovered that I am not a director of the Council. A thorough “investigation” would have discovered the Old Home Day Committee is a longstanding group that has functioned for many, many years as a separate, non-municipal committee. The NH Municipal Association refused to insure the group because Old Home Day Associations aren’t considered part of municipal government. I feel that Chairman Maxfield owes me and the hard-working volunteers of both the Loudon Communications Council and the Loudon Old Home Day Committee a public apology.”

Chairman Maxfield read from “Knowing the Territory,” a survey of municipal law from NHMA. He said there was one thing he wanted the public to know, and this statement explains what he was thinking. “It is all too common for one Selectman to think he or she or their actions are final as long as one Selectman is contacted by phone or as long as at least two Selectmen put their signatures on a piece of paper. The NHMA opinion is this practice is legally incorrect and a meeting is required. Otherwise a third Selectmen’s right to participate in discussions is violated. The public’s right under RSA 91:A to observe a decision being made at a public meeting is violated.” He said his intent, and maybe an error in judgement, but the intent was to have an open meeting and resolve this publicly, actually to do this correctly and ensure things were right and all the public would understand that Selectman Kardaseski was not in violation of RSA 95:1. He said it is a struggle and referred to events of last year when former Selectman Buttrick was doing work at the new fire station. He also referred to a Selectman from many years ago receiving Town funds for work completed on the current Town Office. When allegations were brought forward the Selectman immediately resigned. Chairman Maxfield said therefore if he erred in his good intentions or his judgment, and as they say the road to hell is paved with good intentions, he said he does apologize to Selectman Kardaseski. He said that she is doing an excellent job as Selectman, nothing personal. Chairman Maxfield said she has offered her resignation twice and he will not accept it. He hopes that she will continue as Selectman. Chairman Maxfield said there is nothing personal with the Old Home Day Committee. They do an excellent job and wish them to continue.

- VI. The Board met with Ed Wlodyka.
 - a. Chairman Maxfield said the Board apologized for any misunderstanding on the procedure. He also advised Mr. Wlodyka that he would need to

provide a bond for the demolition costs and possible litigation fees. In addition, an agreement would need to be signed and Mr. Wlodyka would have one year, from the date of signing the agreement, to construct a new home, get his certificate of occupancy, and remove the existing residence from the property. A building permit to replace an existing structure would be available once the agreement is signed. Mr. Wlodyka questioned why the procedure had changed from when he first came in. Selectman Kardaseski explained that Mr. Wlodyka's request was the first time the Board had encountered this situation and the Board was not sure how to proceed. Considering the replacement of one structure with another as new construction was incorrect at that time. To replace one structure with another has no affect on the growth rate and that is why these requests are now being handled this way. Individuals requesting to proceed in this manner can get a building permit as long as they have all of the required paperwork. Mr. Wlodyka said his was not the first case. He said that many things have affected him and his family because of the Board's original decision. Chairman Maxfield said the Board apologizes for any inconvenience but the Board would also like to move forward to resolve the situation. Selectman Kardaseski referred to a letter from Mr. Wlodyka dated 01-15-03 that states his septic design was being submitted to the State for approval. A septic design is a requirement to obtain a building permit. Mr. Wlodyka said his design was approved 01-30-03. Selectman Kardaseski said it does not appear that Mr. Wlodyka has come back to the Board since February of 2003. Selectman Kardaseski tried to assure Mr. Wlodyka that the Board's original decision was not an attempt to keep Mr. Wlodyka from building a new house. Selectman Bowles said the Board is trying to work with the Town's people to make it easier for them to follow the proper procedures. The Board referenced the Brian Ramsay situation. In this case, the Ramsay's took a garage and converted it into living quarters. They then decided that they wanted to replace this residence with a new one. They were allowed to get a replacement-building permit once they signed the agreement and posted a bond to ensure that the "existing residence" would be turned back into a "garage." This meant all plumbing, kitchen fixtures, etc. would be removed, before getting the bond refunded. Mr. Wlodyka said he would take the toilet out of his "old" house and call it a shed so he wouldn't have to tear it down. Mr. Wlodyka was told that in no way does his existing residence constitute a shed. Selectman Bowles said the Board was trying to help residents with situations like this but it appears Mr. Wlodyka is playing games. Discussion ensued regarding the fact that although Mr. Wlodyka received the letter from the Selectmen stating there were no building permits left and he should gather all the required paperwork and get on the building permit waiting list for the following year. Mr. Wlodyka did not apply for the building permit for the following year. Selectman Bowles stated the Selectmen have apologized for the misunderstanding with the building permit issue; however, arguing about what happened in the past is

not going to do anybody any good. He said it is time to move forward. Selectman Kardaseski advised Mr. Wlodyka if he wanted to build a replacement home on this lot, he needed to provide a bond for demolition, sign the agreement, and once these items are in place he can see the Building Inspector for his replacement permit. She reminded Mr. Wlodyka that he would have one year from the time the agreement is signed to build the new home and remove the existing home. Mr. Wlodyka stated he was not sure he wanted to remove the existing house; maybe he would turn it into a shed. Discussion ensued regarding responsibility; changes that have come about with this process since Mr. Wlodyka first brought this to the Board and the need to have an updated demolition cost for the bond. Chairman Maxfield discussed opening a CD as a type of bond.

- VII. The Board met with Lee Smith from the Loudon Lions Club.
- a. Mr. Smith stated the Loudon Lions Club was looking to get involved with community projects in Town. He stated the Loudon Lions Club has offered to assist Chief Burr with the replacement of the fence at the Town Cemetery. Selectman Bowles stated he was glad to see this type of Community involvement. Mr. Smith stated the Loudon Lions Club was applying to be an “Adopt a Highway” club. Chairman Maxfield suggested Mr. Smith contact the Recycling Committee regarding joining forces in recycling efforts. Mr. Smith stated the Loudon Lions Club meets the third Wednesday of each month at the Maxfield Public Library and that the Club is looking to increase its membership. The Board thanked Mr. Smith and the Loudon Lions Club for their interest in the community.
- VIII. The Board met with Ken Berwick.
- a. Mr. Berwick discussed excavation issues at the Motion Motors property on Tax Map #001, Lot #004 relative to the 155-E permit in place. Mr. Berwick discussed the issue with excavating within 50 feet of a building and stated the 155-E permit for this property says the buildings are to be razed or removed on the easterly portion of the lot. Mr. Berwick stated the Supreme Court gave him the gravel on the easterly portion of this lot. Discussion ensued regarding enforcement issues. The Board stated they felt this is a civil issue.
- IX. The Board continued with their review of weekly correspondence.
- a. The Board received a memo from Tony Puntin regarding the Merullo subdivision.
 - b. Chairman Maxfield stated the Board received a copy of the 2005 Highway Block Grant distribution in the amount of \$141,841.37.
 - c. The Board received a copy of the 2004 Merrimack County Assessment for the amount of \$863,452.00. This amount is up \$105,111.00 from 2003.
 - d. Selectman Kardaseski moved to appoint Karen Weeks, Deb McLane, Debbie Latham, Lisa Landry, and Sarah Chudzicki all of Loudon, to the

Loudon Recreation Committee. This appointment shall expire on March 31, 2005. Seconded by Selectman Bowles. Chairman Maxfield stated the Board is pleased to have these volunteers on this Committee. All in favor. Motion carried.

- e. Chairman Maxfield stated for the record that one pistol permit was submitted for signature and approval.

Selectman Kardaseski moved to adjourn the meeting at 8:15 PM. Seconded by Selectman Bowles. All in favor. Meeting adjourned.

THE LOUDON BOARD OF SELECTMEN

Roger A. Maxfield, Chairman

Deborah A. Kardaseski, Selectman

Dustin J. Bowles, Selectman