

Selectmen's Meeting Minutes

Tuesday, November 14, 2006

Present: Selectman Bowles, Maxfield, and Ives.

Also present: Police Chief, Code Enforcement/Compliance Officer Bob Fiske, Fire Chief Jeff Burr, Zoning Board Chairman David Powelson, Planning Board Chairman Tom Dow, Planning Board member Bob Ordway, Road Agent David Rice, and Deputy Fire Chief Rick Wright.

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

- I. Selectman Maxfield moved to approve the Selectmen's Meeting Minutes of Tuesday, October 31, 2006 as presented. Seconded by Selectman Ives. All in favor. Motion carried. Chairman Bowles stated there was no meeting on Tuesday, November 7, 2006 due to the election.

- II. Chairman Bowles opened the Board of Permit meeting.
 - a. Mr. Fiske discussed Chip Davis's property on South Village Road relative to turning the building into a residential structure. He referenced Loudon Zoning Ordinance 602.3. Discussion ensued regarding the building permit requirement. Chairman Bowles discussed a similar situation on Route 129 where a meat cutting shop was converted into a residential building and that owner was required to get a building permit. He stated he wanted to be sure that precedent had not already been set. Mr. Fiske talked about the garage on Lower Ridge Road which was suppose to have a residential structure on it and subsequently has had the garage turned into a residential structure. Selectman Maxfield stated he does not have a problem with Mr. Davis' request and said the donation of the \$3,500.00 to the DARE program would need to go into the General Fund. Selectman Maxfield asked if Mr. Fiske had done an inspection of Mr. Davis' property. Mr. Fiske stated he did not plan to do an inspection until the Board of Permit feels an inspection is applicable. Selectman Maxfield stated he felt the Board of Permit would want to know that the building is an acceptable residential building before making any decision. Mr. Fiske said he would be 99% convinced that it is. He said it has a newly designed 3-bedroom septic system installed. Chairman Bowles asked about the purpose of the donation. Mr. Fiske said he is not sure other than he feels it is a good faith effort. Mr. Dow questioned the donation and permitting portion of Mr. Davis' information. Mr. Fiske stated that Mr. Davis said if he receives permitting and the Town accepts his donation, Mr. Davis would consider relinquishing one of his 2007 building permits. Mr. Fiske said he feels the building permit goes with

the piece of property it was applied for. Selectman Maxfield said there are many buildings in Town that could be converted from commercial to residential structures and it does not feel right. Mr. Fiske stated his question is if the Board of Permit was going to allow Mr. Davis to go from a Police Station to a Real Estate Office to a house without a requiring anything further. Mr. Fiske stated he felt Mr. Davis needed a permit, he was not sure that it needed to be a new building permit. Mr. Powelson stated that the Growth Ordinance is there to restrict how fast new residences are occupied in Town. He said if we start to skip around the Ordinance and let people occupy a new residence without the proper permit process it defeats the purpose of the Ordinance. Mr. Dow said that this is a change of use and if someone were changing it from a residential structure into a commercial use, they would be instructed to come before the Planning Board. Selectman Maxfield said what he does not like is that Mr. Davis changed it into the "3-bedroom residence" and now wants the approval for the change. Mr. Fiske stated that this change of use makes this property a more conforming property. Mr. Powelson stated that in the Village District an office use is also a conforming use. Chairman Bowles said that he agreed with Mr. Powelson and that this is a gray area because the purpose that the building was under as a Real Estate Office is a permitted use in the Village District and is not there by a Special Exception. He said that under Loudon zoning neither one is more conforming than the other because they are both permitted uses. Mr. Fiske said it is his opinion that this is a commercial use. Chairman Bowles stated it is a permitted commercial use. Mr. Powelson said by Special Exception. Selectman Ives asked if a public hearing needed to be held. Chairman Bowles said he does not feel a public hearing needs to be held. He said the Board of Permit needs to come up with their recommendations and advise Mr. Fiske which direction Mr. Davis needs to go, whether it is Planning or Zoning. Mr. Powelson said that the building permit process still needs to be followed. Chairman Bowles stated that the property on Route 129 where the meat shop was changed to the residential structure was required to file for a building permit. Mr. Powelson said he is inclined to have Mr. Davis apply for a building permit, get on the waiting list, and follow the Ordinance. Selectman Ives said he agreed. Chairman Bowles said that there have been many instances where the Board's have made it very clear that a building permit is attached to the land, and that it is not going to be swapped around from one lot to another. Mr. Dow said that he feels this should go to Town Counsel for his opinion. Selectman Maxfield said Town Counsel should not be making every decision for the Boards. The Boards are elected to do a job and they need to do it. It was discussed that the property owner on Route 129 was required to get a building permit to do the same type of conversion. Chairman Bowles said that this issue would be researched further before a

definite decision is made and the Board will take it under advisement at this time.

- b. Mr. Fiske discussed an issue with a subdivision on Lovejoy Road relative to a corner lot. He stated the corner lot has the required 200 feet of road frontage on Lovejoy Road, which is the “more heavily traveled road” and has 100 feet of frontage on the “subdivision road”. Mr. Fiske discussed the front setback requirements relative to the driveway. Mr. Powelson stated that this issue was discussed at the Zoning Board of Adjustment meeting. He said that the Board reviewed the request to reduce the front setback from 50 feet to 30 feet and denied the request for the reduced setback. It was discussed that because this is a corner lot, it is required to meet the front setback on both roads. Mr. Fiske said it needs either to be accepted as a Special Exception, or seek an injunction. The Board said that the Zoning Board has denied the Special Exception relative to the setback issue and it is now up to the property owner to either drop the issue or file an appeal. Mr. Fiske asked if the property owner does not file the appeal is the Town going to go forward to seek an injunction. Chairman Bowles stated that at this time, he could not answer that question. It is something that will have to be looked into. He stated that he feels the Board of Permit does not have the authority to overrule the decision of the Zoning Board. Mr. Fiske asked if there would be any leniency if the property owner came before the Zoning Board and asked for only one reduced setback versus reduced setbacks for each lot in his subdivision. Chairman Bowles said he felt that since there was only one Zoning Board member present this question could not be answered. He said that the Zoning Board denied the request for the Special Exception to reduce the setbacks and the property owner needed to move in whatever direction they see fit.

Chairman Bowles put the Board of Permit on hold due to the Public Hearing that is scheduled for 7:00 PM.

- III. Chairman Bowles opened the Public Hearing regarding the signal replacement project at the intersection of Route 106 and Route 129 through the Department of Transportation, Bureau of Traffic and read the public notice for those present. Representatives of NH Department of Transportation, Bureau of Traffic were: Engineering Technician Terry G. Place and Traffic Research Engineer Subramanian N. Sharma.

- a. Mr. Sharma stated the intent of this replacement is to update the signal equipment. He explained what is currently in place and stated that the new updated equipment would be more visible to motorists. Mr. Place explained that the new system would have advanced loop detectors, which detects vehicles as they approach the intersection and gives the motorist additional time to get through the intersection before the signal changes. Chairman Bowles asked how this update would effect the wait times for Route 129. He asked if this change would make is

so more vehicles would get through on Route 106. Mr. Place said that they have done their research and currently the wait time is approximately 18 seconds; with the changes they are looking at the wait would be approximately 14 seconds. Mr. Place stated the lane use would stay the same. Selectman Ives asked about the Opticon preemptive device for emergency vehicles. Mr. Sharma stated he would like to address this subject after they have given their presentation. Mr. Sharma went on to say that, this is the only intersection that will be addressed at this time and that the funds are from a State betterment fund and the Town is not responsible for any of the funding for this project. Chairman Bowles asked if there was anyway to utilize the old signal equipment at the Staniels Road and Route 106 intersection. Mr. Sharma said that this project is only addressing the Route 106 and Route 129 intersection and the betterment projects are setup to replace existing systems and any new placement of signals needs to go through a different process. Selectman Maxfield asked when the installation would be complete. Mr. Sharma stated they plan on advertising the project in February 2007 and having it completed in the fall of 2007. Discussion ensued regarding NASCAR Race events. Mr. Sharma stated there would be no work done during the big race events. Mr. Fiske asked about the signal box. It was stated that it would be updated, but would still be able to be accessed for the change during race events. Mr. Ordway asked about considering cross walk buttons for this intersection for pedestrians. He stated he feels there is a need for this to be included. There are kids who cross Route 106 from the late bus as well as groups of walkers who have to try to get across before the yellow light changes and there is not very much time for them to get to the other side before the light turns green. Mr. Sharma stated he would make a note and get some direction from his office. Deputy Chief Rick Wright asked about the Opticon device. Mr. Sharma stated they are planning to replace the device and would be working with the emergency personnel to determine what preemption device is used. Deputy Chief Wright said that it would need to be for all four points of the intersection and they would want to be sure to have a chance to be sure it was fully operational prior to the completion of the project. Mr. Sharma said they are planning to put one signal on each of the four mast arms. Mr. Place said that the Town would have the chance to work this out with the contractor prior to completion. Mr. Sharman discussed mast arm street signs relative to the signs saying NH Route 106 and NH Route 129. Discussion ensued regarding the three events that could possibly be affected by this project, Motorcycle Week, the July NASCAR Race, and the September NASCAR Race. Mr. Sharma stated the majority of the work is completed in the State right-of-way. Mr. Sharma touched base on the islands on Route 129. He stated that a little reconstruction would be done on one of the existing islands.

Mr. Place discussed possible paving of a portion of the area some time in the future. The Board was given a copy of the proposed plan and layout.

Chairman Bowles closed the Public Hearing and reconvened the Board of Permit.

- IV. Chairman Bowles reopened the Board of Permit.
- a. The Board continued their discussion regarding the subdivision on Lovejoy Road. It was agreed that the decision of the Zoning Board stands.
 - b. Mr. Fiske discussed the driveway issue on Deedee Maratea's property on Berry Road. He stated based on the letter from Engineer Tony Puntin everything appears to be in order and Ms. Maratea has agreed to put in the swale. Mr. Fiske asked if the swale were put in place would Ms. Maratea be in compliance. Chairman Bowles stated the driveway was not designed correctly and the contractor had assured him that the road would be higher, it did not get any higher, and now the rip-wrap drainage is not low enough. Discussion ensued regarding when the swale is constructed there needs to be an adequate amount of stone left up the embankment. Chairman Bowles stated on many occasions the property owner and contractor were asked on several occasions to follow the approved design. Mr. Fiske asked if there is anything further that he needed to do with this issue. Chairman Bowles stated he has observed on two separate occasions during heavy rains that the water is not flowing through the culvert, which means that the system was not installed correctly. Selectman Ives stated that the driveway is flat; it is not pitched into the swale. Chairman Bowles said he feels that 40 – 60 % of the problem will go away once the swale is lowered and the drainage on the right side is addressed. Roy Merrill was recognized from the audience. He talked about the driveway not being constructed properly, the catch basin issues, and asked why not have them dig it out and see how thing go over the winter, then make the decision about returning the bond. Chairman Bowles stated he felt that was the direction the Board was headed in. Chairman Bowles asked what assurance the Town had to be sure the swale is dug. Mr. Fiske stated just the contractors' word at this point. The Board agreed that at least until the swale is dug, the bond would stay in place.
 - c. Chairman Bowles asked Tony Merullo to join the Board to discuss his subdivision road known as Creek Water Lane. He advised the Board the road is bonded and he is nearing the completion of one of the homes and is trying to find out what the requirements are for substantial completion and certificate of occupancy. Mr. Merullo advised the Board there is a 2200-foot road with a cul-de-sac. They have grubbed, cleared, leveled out, and excavated 2200 feet, which has been inspected and approved. He said 1450 feet has been approved

sub-grade to place gravel, and the gravel has been placed on the 1450 feet. Mr. Merullo went on to say that the gravel has been tested, inspected, and approved by the Engineer for gravel base. He said they are in the process of placing 1200 feet of crushed gravel, which gets them 200 feet past the cistern, and they intend on paving 1100 feet within the next two weeks. Chairman Bowles asked if the 1100 feet of paving gets them beyond the cistern. Mr. Merullo stated that it does put the pavement past the cistern. The cistern has been placed with Chief Burr in attendance at the installation. The pressure tests have been done, backfilled, and complete except the landscaping at this point. Mr. Merullo stated there is one issue with the depth meter gage and the cistern company is addressing that issue. Selectman Ives asked if the pavement would be past the lots that are being constructed. Mr. Merullo said that the 1100 feet of pavement would be past all of the driveways under construction and goes past five of the lots. Selectman Ives stated he would like to see that the pavement would go past the entire lot looking for a certificate of occupancy in case at a later date the owner decides to move his driveway and ends up on a dirt road. Mr. Merullo said it is not an issue because the pavement goes beyond the lot he is seeking a certificate of occupancy on. Discussion ensued regarding other road projects that have happened in Town. Chairman Bowles stated his concern is that the people purchasing the homes are aware that this road would not be maintained by the Town of Loudon, and that the owner is under their own risk if emergency services are unable to get to the property they will need to sign a Class VI Road Waiver and a letter from the property owner clearly acknowledging the risks involved. It was discussed that a hammerhead or turnaround would need to be maintained. Roy Merrill suggested that Wellington Lane and other developments on non-maintained roads should be required to sign Class VI Road Waivers. Chairman Bowles stated it has been discussed in the past, and he has been adamant about having Class VI Road Waivers in place. Discussion ensued regarding the requirements for the certificate of occupancy as well as the term of Class VI Road Waiver to possibly be changed to "Private Way" Road Waiver. Mr. Merullo stated the hammerhead would not be in the paved portion, it would be included in the 1450 gravel portion of the road. Mr. Merullo will provide the Town with a document stating that he will be responsible to maintain the hammerhead.

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

- V. The Board met with Road Agent David Rice.
 - a. Mr. Rice asked the Board about their feelings on the purchase of a new truck for the Highway Department. He advised them that there is a need for the truck and it is due to be replaced this year. Selectman

Maxfield asked about the status of the truck that would be replaced. Mr. Rice said that he feels it will cost a lot of money to keep the truck in operation, but wanted the Board's input.

- b. Mr. Rice asked about the waste oil burner purchase. Due to trying to keep expenditures low, he has not made the purchase and asked the Board for their input. The Board will check into this and get back to Mr. Rice.
- c. Discussion ensued regarding the good job Tad Flagg has been doing while Mr. Rice is out on medical leave. The Board commended Mr. Flagg for his efforts.
- d. Mr. Rice asked about the items that he needed to purchase in regards to the hold on spending due to the bridge projects. The Board will look into Mr. Rice's request.
- e. Selectman Maxfield asked how many trucks the Highway Department has. Mr. Rice stated five large trucks and one one-ton. He said that the truck he is looking to replace is a 1990. Discussion ensued regarding plowing and the condition of the truck. Mr. Rice was advised to get pricing on the truck and bring it forward at budget time.
- f. Selectman Maxfield asked if the Highway Crew would continue working on improving Wiggins Road. Discussion ensued regarding the Town's agreement to maintain Wiggins Road until Cross Brook Road is finished.
- g. Mr. Rice discussed a water drainage issue for Mrs. Gowling on Berry Road. Discussion ensued regarding the drainage issues.
- h. Selectman Maxfield advised Mr. Rice that the Board would be meeting with representatives of H L Turner Group regarding the Village Dam project at 9:00 AM on Wednesday, November 15, 2006.

VI. The Board met with Deputy Fire Chief Rick Wright.

- a. Deputy Chief Wright provided the Board with correspondence. Chairman Bowles advised Deputy Wright that he was working on the issue with Office Manager Jean Lee. Discussion ensued regarding the Fire Department compensation.
- b. Chairman Bowles stated he would like to have correspondence from the Fire Department in to the Selectmen's Office by Monday if possible so that it can be included in the correspondence. A memo will be forwarded to Chief Burr advising him of this request.
- c. Chairman Bowles asked Deputy Wright if he was aware of the purchase of the furnace. Deputy Wright stated the purchase was for the Village Station as the furnace was not working for approximately three weeks and needed to be taken care of due to a cold spell. Chairman Bowles stated that a purchase of that size should be discussed with the Selectmen. As required by all departments.

VII. The Board met with Police Chief, Code Enforcement/Compliance Officer Bob Fiske.

- a. Chairman Bowles stated for the record that two pistol permits were submitted for signature and approval.
- b. Mr. Rice asked the Board about a request he had from members of the Fire Department to bring the mobile home unit that was destroyed by a fire to the Transfer Station for demolition. He said that someone has agreed to place a demolition container on site to keep track of the demo and the steel will be placed in the steel pile. Selectman Ives inquired about the current site of the mobile home. Mr. Rice said he understood that a replacement mobile home has been found and they are hoping to replace the destroyed one as soon as possible. Chairman Bowles stated his concerns if for liability issues; however, he agrees that the Town wants to assist this family in anyway it can to get them into a home. Chairman Bowles asked if there is anyway that, it could be placed at David Moody's property. Mr. Rice will speak with Mr. Moody regarding this issue. Mr. Rice stated there have been units in the past that have been demolished at the Transfer Station. Mr. Rice will advise the Board of Mr. Moody's decision. Deputy Wright stated that some of the family's belongings have been stolen since the fire. Selectman Ives said the Fire Department passed a hat for donations to assist the family and the Boy Scout Troop donated to the family. The Board will look into the liability issues further.

VIII. The Board began their review of weekly correspondence.

- a. The Board received a letter from Gary and Lynn Nemiccolo regarding Cross Brook Road Bridge construction. The Board has a drafted a response together with a progress update from Engineer Jason Gallant to be forwarded to the Nemiccolo's.
- b. The Board received legal correspondence regarding a personnel matter.
- c. The Board received a copy of the 2006 Tax Rate information. Chairman Bowles stated the official Tax Rate for 2006 is \$17.07. The Town portion is \$3.22, Local School rate is \$9.69, State School rate is \$2.15, and the County rate is \$1.99.
- d. The Board received a reminder that Bruce Dyke, Chairman of the Chichester Town Organization Committee is looking for the Board's response to the letter he sent last week. The Board stated they are content with the ambulance service agreement with Chichester and do not see where sharing Fire and Police coverage would be beneficial to the Town.
- e. The Board received notice of the November 20, 2006 Zoning Ordinance Workshop at 6:00 PM at the Safety Building.
- f. The Board received a copy of correspondence sent to the Planning Board regarding Chip Davis' Kinkade Haven subdivision.
- g. The Board received copies of a letter from Assessor Jeff Earles regarding new DRA procedure revaluations and updates.

- h. Chairman Bowles stated the Board needed to respond to Wayne Thistle regarding his petition request to layout his subdivision road known as Thistle Hill Road. Mr. Thistle also would like to know about the construction bond. Chairman Bowles stated that this point Mr. Thistle is not required to post a construction bond, as he has not sold any homes in the subdivision. The road is up to sub-grade and Engineer Tony Puntin has inspected and approved the progress to this point. Mr. Thistle plans to leave the road as it is until May and then Mr. Puntin will do an inspection in the spring. The Board agreed that no bond would be required at this time, as no lots have been sold.
- i. The Board received the ESMI monthly compliance report for October as well as the 3rd Quarter Host Community Fee payment.
- j. The Board received a letter from Mary Bubnis regarding high-speed internet access.
- k. The Board received correspondence from Comcast regarding changes to their digital packages.
- l. The Board received copies of October property transfers for review.
- m. The Board received an abutter notice from the Planning Board regarding the DeCato subdivision.
- n. The Board reviewed the original file copy of Ora and Mary George's appeal to Wetlands Board for review.
- o. Chairman Bowles stated the Chichester Road Bridge has been completed and the Board is forwarding a letter to Advanced Excavating and Paving as they have done an exceptional job with the project. He said Mike Bean the Project Manager was always available and willing to work with the Town to address any issues.
- p. The Board is forwarding a response to BTLA regarding an issue with a mobile home in a mobile home park.
- q. Chairman Bowles read the following into the record: "We, the Selectmen and Assessors of the Town of Loudon NH, do solemnly swear that in making the inventory for the purpose of assessing the foregoing taxes we appraised all taxable property at its full value, and as we would appraise the same in payment of a just debt due for a solvent debtor. So help us God." Bowles, yes, Maxfield yes, Ives yes. Motion carried.
- r. Chairman Bowles stated one item not on correspondence is from Chief Burr. The first is in regards to the fire pond and dry hydrant for Joe Bohi's property. The Fire Department has tested the dry hydrant and found it to be operational and the pond has maintained its capacity for four weeks. Chairman Bowles stated he had some concerns regarding the driveway into the "pull off" and gravel has been added to the area and it is now in order. This satisfies the requirements in order to release the bond.
- s. Chairman Bowles said the other item not on correspondence from Chief Burr is relative to the cistern on Creek Water Lane. Chief Burr

- noted that the float gage is not operating and the Mitchie Corporation is in the process of getting this fixed and it has maintained its capacity.
- t. Chairman Bowles advised the Board that the upper fire pond on Greenview Drive has been installed and is filling with water. The lower pond is currently being worked on.
 - u. The Board discussed the proposal from The Louis Berger Group regarding the Berry Road DES issues. Discussion ensued regarding concerns the Board has relative to the scope of the project. Discussion ensued regarding Clough Pond Beach relative to DES issues. Chairman Bowles will contact Judy Houston at The Louis Berger Group regarding this issue.

Selectman Ives moved to adjourn the meeting at 9:05 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