

MINUTES OF HAVERHILL SELECTBOARD REGULAR MEETING

Monday, September 21, 2015

Draft Subject to Review, Correction and Approval at Following Meeting

Board Members Present: Wayne Fortier, Tom Friel, Lynn Wheeler, Rick Ladd and Robert Roudebush

Town Manager: Glenn English

Administrative Assistant/Finance Officer: Excused

Selectboard Clerk: Karen Hyde

Members of the Public Present: Bob Long, Bill Daley, Fred Garofalo, Kristi Garofalo, Harry Burgess, Laraine King, Darwin Clogston, Jeff Page, Jasper Page, Arend Tensen, David Long, Steve Wheeler, Christopher Demers, Bob Rutherford, Tom Harris and Ed Ballam – Journal Opinion

Call Meeting to Order:

Chairman Fortier called the meeting to order at 6:00 pm.

Pledge of Allegiance

Agenda Approval (additions/deletions completed by Board consent): Chairman Fortier asked to have Committees added to New Business, specifically appointing Robert Roudebush as an alternate to the Zoning Board. Tom Friel also wanted to expand on alternates to other Committees, such as the Planning Board. Robert Roudebush made a motion to accept the amended agenda; seconded by Tom Friel and carried unanimously.

Approval of Consent Agenda: Rick Ladd made a motion to accept the consent agenda; seconded by Robert Roudebush and carried unanimously.

Scheduled Public Appearance(s):

- **Bill Daley-ZBA Appointment:** Bill Daley was interviewed by the Board as an appointee to the Zoning Board of Adjustment. Mr. Daley has been a Town resident for about 4½ years. He has been on the Planning Board and has an understanding of Town government. Tom Friel and Robert Roudebush had very good things to say about Mr. Daley. Rick Ladd made the motion to recommend the appointment of Mr. Daley to the Zoning Board of Adjustment; seconded by Lynn Wheeler and carried unanimously. Mr. Daley was sworn in by Chairman Fortier.
- **Steve Wheeler:** Mr. Wheeler, Woodsville Precinct Commissioner, stated that the Woodsville Fire Chief and one of the Chief's assistants came to him regarding the Life Safety inspection reports. Mr. Wheeler also stated that he had spoken with Bill Degnan, the State Fire Marshall, who stated that the form needed to be modified. There were differences in the RSA stated on the inspection form. Chairman Fortier could not find an RSA number on the form that Steve handed to him, but there was a Life Safety Code of 2009, addition Chapter 6 on the form. Chairman Fortier stated that Rick Ladd had been involved in the drafting of the form. Rick commented that he had worked with the State Assistant Fire Marshall and they had added comments to the inspection form and the Board had changed the comments accordingly. Steve stated that he would leave the inspection form with the Board and if the Board didn't like it, to let them know, but the Fire Chief wanted the Board to have the form. Chairman Fortier asked if there was a specific issue and Steve said it had something to do with the RSA number. Lynn Wheeler stated that the Board would compare what Steve had given them to what the Town had. TM English stated that the form given to them by Mr. Wheeler did not have any information about the inspection. He asked Steve if the Chief was asking to substitute the form handed out and Steve said yes. Lynn asked if the Chief felt the Board went beyond their scope and Steve said that he believed so. Rick Ladd stated that he would be going to Concord and he would speak with Mr. Degnan about the form. Chairman Fortier commented that the Board would have a decision by the next meeting or sooner.

Public Hearing: None

Town Manager's Report: TM English handed out a copy of the 1986 agreement between Mountain Lakes District and the Town that they were going to have a discussion on. TM English commented that the agreement started out with a letter on Mountain Lakes' stationery. Chairman Fortier asked if the letter identifies what the agreement is and TM English stated that it identifies the lots that the Town Meeting voted to allow the District to accept tax deeds for. Chairman Fortier asked if the lot in question was on the list and TM English stated that he did not see it. Bob Long stated that the paperwork that TM English handed out had been referenced before. It again references the lot between 1 and 2 behind Crestfield and that is a portion of what is currently known as Lot #32. Chairman Fortier asked where that was stated in the agreement and Mr. Long pointed it out for Chairman Fortier on page 3 of the handout. TM English added that he had sent letters to Gary Wood and Robert Rutherford, who are surviving Selectboard members from that time period and Mr. Rutherford was in attendance. TM English also commented that Mr. Rutherford had come into the Selectboard office and they had a discussion and Mr. Rutherford wanted to help the Board with his recollections of these transactions.

Pending (Old) Business:

- **Mountain Lakes-Town of Haverhill Lot:** Chairman Fortier thanked Mr. Rutherford for coming in and then asked him if he had a clear recollection of what the finalized status of the greenbelt areas were with his Board. Mr. Rutherford stated that the Mountain Lakes people approached the Selectboard to try to get what they felt were amenities to the District (greenbelt and recreational areas) and the Board, at that time, pretty much agreed that what they were asking for was legitimate and would help save the Town or the District from going into litigation. They agreed to put that article in the Warrant for the voters to vote on. It was pretty specific to what they discussed and it was listed in that Warrant Article at Town Meeting. The Mountain Lakes people were trying to get the greenbelt areas and protections that were required by the Planning Board in order to improve subdivisions of different sections of the Mountain Lakes area. The Board felt that those people were pretty much entitled to govern that protective land and were willing to put that article into the Warrant for the voters to vote on. There really wasn't any discussion about any additional lands or big parcels because at that time, there were three or so big parcels of land that hadn't been developed and a couple of them went back to the previous property owner because they had never been paid for. The only land that the Board was looking to turn over to the District was what was specified in that agreement and Article. Chairman Fortier asked Robert if it was his understanding that the lot in question, off Tewksbury Road, was not included in that list. Robert responded that the majority of that land was not on the list because it was a big block of land that hadn't been subdivided and planned yet. Chairman Fortier commented that the lot in question was 174 acres and asked Mr. Rutherford if that was considered a large chunk of land. Mr. Rutherford said he did. Chairman Fortier then asked Bob Long if the greenbelt area near Crestfield, Lots 1 and 2 was the same piece of property that they were discussing. Mr. Long stated that it was a part of that piece of property, between 1 and 2. Apparently, there was another lot between them at one point in time. Mountain Lakes has always known it to be one lot but the way that it is referenced between Lots 1 and 2 as 74 acres that exists now it is referenced as Lot 1 back then and Lot 2 is located farther down on French Pond Road. Chairman Fortier then asked if the lot in question was 174 acres and Mr. Long stated that it was. Mr. Long then stated that Mr. Rutherford referred to the Board wanting to turn over greenbelts and this has always been known as a greenbelt area. It is referenced in the Article and also in the agreement. The Town has no desire to keep the greenbelts and common areas and they wished to turn it over to the Mountain Lakes District. Chairman Fortier commented that he was in conflict because he had just heard a former Selectman say that the large piece was not included in this agreement. Mr. Long stated that it is known as Lot 1, a part of the parcel and the intent back then talks about common areas and greenbelt areas. Chairman Fortier stated that on page 3, it says the greenbelt between Lots 1 and 2 and did Mr. Long not say that Lot 1 is the property in question consisting of 174 acres. Mr. Long stated that the Lots 1 and 2 referenced are a part of the 174 acres as far as he can tell. Chris Demers commented that greenbelt Lot 1 is 174 acres and then there is greenbelt #2 on the map and then there is a little piece that

is 74 acres. On another map that has a line through it as if Lot 1 is now split into two lots -- Lot 1 greenbelt, a piece of Lot 1 and then Lot 2. Lynn Wheeler asked Chris what map he was talking about -- the Crestfield map that was found that was referenced in the first meeting or the tax map. Chris stated that it was a big map that Mountain Lakes took from somewhere and it was on a giant board at Mountain Lakes. The Town tax map now listed the parcel as Lot #32 but it used to be Lot 1. Chris commented that there is no survey on a piece of land between 1 and 2 because it is really part of Lot 1. There is no clear definition of a survey of the piece between 1 and 2. Jeff Page stated that he had brought the rest of the Crestfield survey that was done by Town & Country, which shows part of the boundary of that 174-acre lot. It also shows 2 green preserves for a total of 42½ acres and one condominium or cluster area with 426,000 square feet, which is roughly 9 acres, which makes three parcels that sit between Crestfield and that lot. Mr. Page went on to say that large acreage was not intended to be transferred, but one of the Mountain Lakes people at the last meeting stated that there were 450 acres in their Forestry Committee that they considered theirs. It was Mr. Page's feeling that there were more parcels than the one being discussed.

Chairman Fortier asked TM English what his research showed. TM English stated that he didn't have any research independent of what the Board already had and the tax collector deed, which to him, shows that this particular lot was deeded to the Town by the tax collector. Tom Friel commented that the situation looked like a disagreement between neighbors and can't figure out who owns what. He also stated that reasonable people have to sit down and have a reasonable discussion of this and come up with a quit claim back and forth to settle it. He felt that they could continue with the discussion for hours. Mr. Arend Tensen, Attorney for Mr. Page, has looked at the title and done a cursory look at it and it is clear that this property was not conveyed by the Town. There cannot be a vague description of Lots 1 and 2; it needs to be very specific to the property and it isn't. There is a dispute. Tom again stated that it needs to be settled between the two parties, quit claimed and established. Attorney Tensen then referred to RSA 41:14-a, it cannot be conveyed if it wasn't conveyed. If the dispute is to be resolved, Mr. Page is glad to join that discussion as an abutter because he has a vested interest in what's going on and there has been a disagreement as to where the boundaries are and who owns it. It is their position that it was not conveyed by the Town to the District, but to the end that it's going to be sold, they would like to be a part of that discussion and see if it can be resolved where everybody is happy. Tom Friel stated that he was a real estate broker and this was the type of thing where you sit down and try to find out where boundaries are where there is no clear cut. Mr. Tensen stated as long as everyone can be involved. Lynn asked Attorney Tensen if he had looked at any of the surveys that Mr. Page has alluded to as far as the Reed property. Attorney Tensen stated that he had looked at some of the surveys and it was pretty clear when he went back to the 1986 conveyance that it was not conveyed and that was his reading of it. He was very concerned about the logging that was going on because something that is in dispute can't be logged. That is what is going on here and that's the genesis of why they were there. Tom Friel stated that he had gone out and looked at the property in question. The Board had told the logger to avoid anything along any boundary lines that were in conflict and from his observation this is what the logger has been doing. Mr. Tensen stated that it shouldn't be logged as it is owned by the Town. TM English had information from the Town Assessor concerning the actual market value on this particular piece of property and the Assessor felt it fell in the range of \$140,000 to \$150,000. TM English found two comparable properties in the same location with the same access to a Class VI road, their per-acre value varies from \$800 to \$1100. There is some evidence to the value of this lot, so that may be important in terms of the Board's eventual decision. Chairman Fortier reminded the Board that at the last meeting, David Long came back into the meeting and asked if the logger could continue logging the trails that he had been working on and the Board agreed with that. Chris Demers stated that Mountain Lakes wasn't disputing the boundary lines; it was the lot in general. They have stayed far, far away from the boundary lines. Mr. Page stated that Mountain Lakes was still acting as if the property was theirs and Tom Friel stated that wasn't so. Mr. Page said that the Town was giving them control over land that was the Town's by letting them choose what's being done with the logging. Tom stated that it has already been done and it was a mutual agreement between Mountain Lakes District and Haverhill. Robert Roudebush

stated that the piece of land in question wasn't doing anyone any good; it was just sitting there so Mountain Lakes made the decision to manage the property intelligently, to harvest the timber and help the Town through timber taxes. This action was talked about, discussed and voted on by the Mountain Lakes' residents. All of them believed for many years, that the property was theirs to do with as they pleased. There was no documentation from the Town showing that it belonged to anyone other than Mountain Lakes. Robert went on to say that the only person who has raised the issue is someone who has used the land in question for his own benefit in some degree, no matter who owns it. Robert stated that this issue has been brought to a meeting three times in a row and it was time to bring it to a close. There is no mal-intent and nobody says there is. There remains a slight misunderstanding which can be easily cleared up and the Board has the authority to do that to move into a productive future. Robert made the motion that the property parcel in question be conveyed to Mountain Lakes through a quit claim deed. There was no second; the motion failed. Attorney Tensen again stated that according to RSA 41:14-a, the Board could not convey the property by a vote. TM English stated that that was incorrect. Town Meeting had given the Selectboard the authority to deed land taken by tax deed. Attorney Tensen stated that according to the RSA, it needed to go to the Planning Board and the Conservation Commission before it can be conveyed by the Town. He disagreed with TM English. Attorney Tensen then went on to say that Robert Roudebush had a conflict of interest as he was a resident of Mountain Lakes. Chairman Fortier asked Attorney Tensen what the conflict of interest was. Attorney Tensen stated that Robert was an advocate of the District on a matter that is presented before the Board. He also strongly disagreed on the interpretation of RSA 41:14-a. He felt that it needed to be properly noticed and go to the Planning Board and Conservation Commission before it can be conveyed. Robert wanted to speak about the conflict of interest. He spoke about this at the last meeting and he stated that he disagreed with Attorney Tensen. He is not a member of the governing board of Mountain Lakes or of the Forestry Committee. He is not a decision maker in that precinct of the Town nor will he benefit or lose anything by whatever decision is made, one way or another. He is a member of the Board and has the right to express his opinion on this matter and will continue to do so unless he is directed not to. Chairman Fortier asked Mr. Tensen, in his opinion, if the Town acquired the land through a deed, they didn't have the right to sell that property or deed it to someone else. Mr. Tensen said that they do have that right, but there were procedures that have to be followed under 41:14-a. Tom stated that he thought it was time to get the Town Attorney involved in this issue. Bob Long feels that there may have been a clerical error in the agreement. He also said that it was stated that there were no large areas of land transferred and that was wrong. There was the ski area and a huge area behind the ski area, so there were large tracts of land. He commented that Mountain Lakes was trying to do a good thing with the land, which has just been sitting there for a long time. Chairman Fortier asked Mr. Long what specifically was the clerical error and Mr. Long stated that when it was talked about the area between Lots 1 and 2. Tom Friel stated that the consensus was that there was a clerical error and what they were hung up on was how to convey, legally, what the Town owns to Mountain Lakes District. This is Tom's personal opinion. Lynn stated that she was looking at the Crestfield plan and she had respect for Mr. Rutherford as both a surveyor and a Selectman that he knew what he was doing and his recollection was that this lot wasn't included in the greenbelt. Chris Demers commented that if there was no deed and it wasn't in the 1986 agreement, Mountain Lakes District was coming to the Board and asking them to deed that parcel to Mountain Lakes District so they could make some use out of it. If Mountain Lakes wasn't asking for the land, it would just be sitting there with nothing happening. He was asking to deed it to Mountain Lakes so that they can make use of Town land for everyone to enjoy. If the Board was going to say no, he wanted to know why. Rick Ladd wanted to discuss the value of the property and where the proceeds go. He asked if all this land was landlocked from the road and was told that it wasn't. He then asked TM English what the process was for taking lots. TM English stated that the developable lots were put out to auction and the Board taken bids from prospective buyers to sell off those lots. This lot has about 1,000 feet of frontage on a Class VI road, which is significant. The Town Assessor feels it's primarily backland and that's how he came up with the market value of \$140,000 to \$150,000. There are comparable, recent sales in that area and he could come up with a more exact figure if instructed to do

so by the Board. Rick stated he couldn't recall where they have directly deeded property in Town to an individual, corporation, Precinct or village. TM English stated that they have deeded per quit claim deed land that was taken by tax sale to the Woodsville Fire District to straighten out a highway issue and they have also quit claim deeded numerous building lots in the District to private individuals by sealed bids. Rick then asked if there was any property owned by the Town that they have directly given rather than put it up for auction. TM English stated none other than the Woodsville example. Robert Roudebush again stated that the land was sitting there until Mountain Lakes began to manage it intelligently to the benefit of all. David Long then went over the agreement list, which he felt was not clear about the greenbelt areas. On the one page, the greenbelt areas are called six (6) different things. TM English stated that the nomenclature back in those days had different designations for this land. One was greenbelt, one was commons and one was undivided parcels. He personally thought that the record shows the parcel in question as an undivided parcel, which was not intended to be deeded to the District. The Town tax maps do not trump a recorded deed. There is a recorded deed that describes this lot as Lot 01 behind Crestfield. It is not a map and lot number, but the designation on the recorded deed for this lot is Lot 01 behind Crestfield. TM English also stated that this was an unsurveyed lot. He has not seen any survey. Mr. Rutherford believed that that lot was surveyed back when Mountain Lakes bought it. All the names and descriptions were taken from the surveyed lands and maps from Mountain Lakes District. Each one of those greenbelts was called a greenbelt, a preserve or a park. The list supplied to the Board of Selectmen at that time was supplied by the Mountain Lakes Commissioners. The Board reviewed it and agreed to put that in a Warrant Article and take it to the voters of the Town to see if they would agree to turn those over to the District without the Town taking them for tax collection. This parcel was slated for development, but wasn't developed. Tom Friel made the motion to have the Town Attorney assess the process of RSA 41:14-a and an opinion on whether Robert Roudebush is in conflict; seconded by Lynn Wheeler. The vote was 4 yeas with Robert Roudebush opposing. The motion passed. TM English stated that if this issue was going to be revisited at the next meeting, he would like to invite the Town Attorney to be present. It was the consensus of the Board to have the Attorney present.

The Board recessed at 7:03 for a break. The meeting was back in session at 7:07.

- **Capital Improvement Plan Update:** TM English stated that after the last meeting, he went back and reviewed the policy. He looked at his initial spreadsheet and added all of the projects that he could foresee in the next ten (10) years. He left the Board a project note on the Stonecrest culvert project, which is very close to an engineer estimate of the construction and he doesn't have that number yet. He was giving the Board a revised spreadsheet and project descriptions for the first two years of the 10-year cycle, which is 2016 and 2017. Other project descriptions will be done for the next meeting. It is a work in progress and not completed. He has not prioritized the projects because, according to the policy, the Selectmen prioritize the projects. He has categorized them per the policy whether they are urgent or necessary.

New Business:

- **Committees:** Chairman Fortier stated that Robert Roudebush had reached out asking if he could be appointed as an Alternate to the Zoning Board of Adjustment. It was Robert's understanding that two Selectboard members couldn't sit on a Board as ex officio, but one could serve as an Alternate in the absence of the ex officio. TM English stated that it was a good idea that Alternates were voted on by the Board. Lynn asked if the Board had the authority to preauthorize a Board member to be an Alternate at a particular meeting. TM English stated that they did have that authority. Darwin Clogston asked about the June 4, 2015 ZBA meeting. He stated that there were 2 members present and they appointed Mr. Roudebush to join them. His question was whether the meeting was legal or not. He asked who appointed Mr. Roudebush to vote at that meeting. Mr. Roudebush stated that the two members that were there made the decision to allow him to sit at that meeting. Chairman Fortier asked if Robert voted and Robert didn't think that he had. Darwin stated that he had. Ed Ballam also stated that Robert did vote; he

was given a Ballot. TM English stated that that vote could be challenged. Darwin asked how he would challenge it and TM English stated that it would have to be in writing to challenge it. Darwin was challenging it verbally. TM English stated that it would have to be to the ZBA, not the Selectboard. Ed told Darwin that he could bring his complaint to the ZBA meeting on Thursday, September 24. Tom Friel made the motion to appoint Robert Roudebush as an Alternate to the Zoning Board of Adjustment; seconded by Rick Ladd and carried unanimously. Tom Friel also asked about having an Alternate to the Planning Board and it was the consensus of the Board that it was a good idea. Robert Roudebush made the motion to appoint Lynn Wheeler as an Alternate to the Planning Board; seconded by Rick Ladd, with Lynn abstaining. The motion passed.

Commission/Committee Reports: Robert stated that there was a great Airport Awareness Day – great cooperation with 40 kids. There was a Blackhawk chopper there. Lynn reported that the Rec Department was plugging along and pretty soon, the roof repairs at the Pool would be completed. The leaks at the Pool were also going to be looked at on September 25. Chairman Fortier reported that the Heritage Commission was still only at 2 members and was hoping by the next meeting to have another member. Lynn also reported that Haunted Happenings was going to have a section for the little kids this year.

Correspondence: None

Comments of the Public: Darwin Clogston asked about the new Town truck and he had heard that it came in over budget. TM English stated that, in fact, it had come in under budget. Lynn asked for the numbers and TM English stated that it was budgeted for \$104,000 and it came in at \$102,000 (note: actually \$105,000 budgeted; \$103,000 paid), with an additional trade-in value for the old truck. Darwin also commented that the Airport Commission was meeting on Wednesday, September 23, for some capital improvements and to possibly sign on with NPIAS. Lynn thought that they had already signed on with NPIAS and Robert stated that they were. Darwin stated that they hadn't taken any money yet and Robert stated that they hadn't. Darwin responded that there was talk of taking money. Robert clarified that the Airport Commission is required to submit to the State of New Hampshire, Department of Transportation, Bureau of Aeronautics, some input on a capital improvement plan and any projects planned. The Airport engineer was suggesting a few things, but they would not require NPIAS funds. It was all in a discussion phase. Anything proposed at the Airport Commission would have to come before the Selectboard before any decision is made. Robert stated that he would keep the Selectboard informed.

Comments of the Town Manager/Administrative Assistant-Finance Officer: None

Comments of Selectboard Members: Robert Roudebush asked about the meeting with Healthtrust on Tuesday, October 13, 2015 at 6 pm. Chairman Fortier stated that Robert was correct.

Adjourn Meeting: Tom Friel made a motion to adjourn; seconded by Robert Roudebush and all approved. Chairman Fortier adjourned at 7:32 pm.

Minutes transcribed by Karen Hyde