

MINUTES OF HAVERHILL SELECTBOARD REGULAR MEETING

Monday, October 19, 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: Jo Lacaillade

Selectboard Clerk: Karen Hyde

Members of the Public Present: Darwin Clogston, Laraine King, Tom Harris, Jeff Page, Jasper Page, Attorney Arend Tensen, Bob Long, David Long, Town Attorney Steven Whitley 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): Robert Roudebush made a motion to accept the consent agenda; seconded by Lynn Wheeler and carried unanimously.

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

Scheduled Public Appearance(s):

- **Maryanne Aldrich-CDBG Grant:** Ms. Aldrich did not attend the meeting.

Public Hearing: None

Town Manager's Report: TM English reported that bids had been put out concerning the culvert project on Page Road and had received 2 bids, both of which were too high based on the funds available. The two other funders and TM English are reworking the project. Most of the money is in concrete and they are trying to figure a way to do the same bridge with the same work with less of a concrete expense. They are revisiting the specs and might be able to do it this fall, but will probably be delayed until spring. He will keep the Board apprised of the situation.

TM English also wanted to confirm where the Board was going next on the junk car issue. He believed that the Board had given him direction, but he wanted to make sure the Board was aware of what the next step would be, which would be court action taken by the Town's Attorney. This court action would be, basically, injunctive relief for the two sites, which sets the Town up for a proper fine or violation. TM English turned it over to Town Attorney Steven Whitley, who explained that the recommendation was to file in Superior Court and seek preliminary and permanent injunctive relief, as well as civil fines and penalties that are allowed under the law. An injunctive relief is when the Court says to someone, "We order you to clean up your property". When an injunctive relief is filed, the attorneys typically ask for permanent injunctive relief, which means going forth in perpetuity that a junkyard cannot be operated. They also ask for preliminary or temporary injunctive relief, which means the Court schedules a hearing pretty much as soon as the calendar permits, to see if there is merit to the petition. If there is, the court gives temporary injunctive relief until the Court can have a full hearing and reach a decision on the full merits. In doing it that way, you can get a temporary order telling the property owner to not make the condition worse until such time as they go before the judge and the judge in the full hearing and renders a decision. TM English stated that there has been no attempt made on the Corzilius property and one vehicle was removed from the Ralph Wright property, but the violations were still there. There were promises made for something to happen by September 1 and that did not happen. Rick Ladd asked Attorney Whitley if one of the results that could come out of injunctive relief would be a timeframe to get the

work done. Attorney Whitley stated that it depended on the specific situation for the property owner, but the attorneys do typically ask for a very specific timeframe to clean up the property. It's not something that's just out there without a deadline for the Town to enforce at a later date if necessary. The way that works is assuming the attorneys prevail there is a court order and if the property owner hasn't cleaned up within the timeframe established by the Court, then the property owner could be found in contempt of court order, which is serious. Judges don't take kindly to people who are not complying with their court orders. Rick also asked if it would be noted that one of the sites had unregistered vehicles on the Town's right-of-way and Attorney Whitley said that that could certainly be addressed. Rick asked if there were any statutes referencing safety of vehicles on the Town's right-of-way. Attorney Whitley could not think of any right offhand, but would check into it. Chairman Fortier asked how many unregistered vehicles constitute a junkyard and was told that it was two (2). Chairman Fortier stated that the consensus of the Board was to go forward with the court action.

TM English commented that there was a presentation at the last meeting from the Oliverian School regarding crosswalks on Route 25. He stated that the process is that the municipality has to request of the State on behalf of the application. If the State DOT approves, they will make the initial installation of the crosswalks and the signs and then the Town has to obligate to maintain in the future. Lynn Wheeler was a little confused about who had to submit the request to the State. TM English stated that the Oliverian School would make the request to the Town and the Town then goes to the State. Rick had some concerns that the properties were not on the tax rolls. The Town would be agreeing to maintain the walkways for future years without any revenue coming to the Town for when police and fire respond and there is no compensation for that response. Robert Roudebush asked if there were other routes besides the Town to get the crosswalks and TM English stated that the request needs to come through the Town. Tom Friel had a concern about lighting and the kids walking beside or in the roads and considered it a safety issue. TM English stated that there was no district that provided street lighting out there. Robert asked if the Board went "to bat" for the Oliverian School, if there could be some provision that the School would maintain the crosswalks thereon. Chairman Fortier asked what the cost was for maintaining two crosswalks and TM English stated that the signs were expensive. The initial signs are provided by the State, but if anything happens to them after, the Town would be responsible. The painting would be a minimal cost. Rick Ladd made the motion that the Town will support the application with the condition that any future cost or maintenance of the crosswalks be that of the School, which would include painting; seconded by Tom Friel and carried unanimously.

Pending (Old) Business:

- **Mountain Lakes-Town of Haverhill Lot:** Chairman Fortier stated that at the last meeting, the Board was charged with considering the three options available that were explained by Attorney Whitley. The options were: (1) putting the property out to bid; (2) going to Town Meeting to get authority from the townspeople to sell the property to a specific entity. Attorney Whitley commented that the Board did not need to specify in the Warrant Article who the entity was that they would be selling to. The third option was to go to Town Meeting to clarify with the townspeople that the Board wanted to keep the property for a specific purpose. Since then, Chairman Fortier has heard from two (2) Board members: Robert Roudebush and Tom Friel. Robert had handed out a possible resolution to the problem and Tom had handed out his recommendation earlier. Chairman Fortier stated that Tom pointed out in the Master Plan, which was revised in 2008 that Section 8 applies to conservation and preservation. It asks the question: "What do you want Haverhill to be in 10 to 20 years?" One of the answers was "expanded recreational opportunities such as biking and hiking trails, RV and snowmobile trails and Connecticut River access". Tom's recommendation is to consider how the land and timber funds in question use the land and logging trails for biking, hiking and RV trails in the summer and snowmobile trails in the winter and cross-country skiing. Funds from the current logging and potential future logging operations could be split up in the following manner: 33% to the property to develop the land for the above usage, 33% to the Recreation Committee for continued improvements or repairs, 16% of the funds to convert a section of Tewksbury Road from a Class VI to a Class V road for the access to the facilities with proper parking space for use of the area, and 18% to offset Mountain Lakes' expense in their part of the development of the project and the legal expenses incurred by the Town in handling this situation. Tom

stated that this was not an “engraved in granite” proposal on his part. This is one he presented for thoughts and to get people thinking about it, especially with regard to the Master Plan. Tom stated that he has driven some of the hilly and winding roads in Mountain Lakes and considers Tewksbury Road a straight road with just a little grade.

Chairman Fortier asked Bob Long if his vision of what the property would look like included hiking, biking and snowmobile trails, but would not include four-wheelers and Mr. Long stated that that was correct. Mr. Long stated that four-wheelers would tear up the roads. Chairman Fortier then read Robert Roudebush’s possible solution. It stated that all earned income to date is split on some percentage formula between Mountain Lakes District and Haverhill. Mountain Lakes District agrees to cease and desist further logging operations on the land in dispute or agrees to continue logging operations on the land with further earnings divided in some manner between Mountain Lakes District and Haverhill with the object of the land being logged to be targeted for public use in the future. Robert stated that he did not speak for the Mountain Lakes governing board or the residents of Mountain Lakes; it was just a proposal to be discussed. Chairman Fortier asked where the Board was on the issue because it was the Board’s purpose to make a decision. Tom wanted to add one more thing which would be to turn the property over to Mountain Lakes District. Robert commented that the reason for his split of the funds was because the property in question sat for years not doing anybody any good. Mountain Lakes has shown the initiative to start the project, to continue it and do the work. He doesn’t think that any of the Board is naïve enough to think that the Town of Haverhill will expend the money or energy to maintain it as a public space, while the Mountain Lakes District may be willing to do that for the public good of everybody. Chairman Fortier stated that, statutorily, the Board is at the three options that Attorney Whitley had outlined. He asked if there was any consensus on any one of those three options. Rick asked Attorney Whitley (1) is the revenue going into an escrow account controlled by the Town and (2) if it is Town revenue, is it within the statute that the Town should be sending part of that revenue, i.e., beyond what the forester and logger costs are, to the Precinct of Mountain Lakes. Attorney Whitley asked for what purpose and Rick said “undedicated”, just sending a split percentage. Attorney Whitney asked “not to recoup any expenses”? Rick stated that that would be done as Part A. Mr. Long said that no money had been expended. Rick then said if what is owed to this particular individual could be paid by the Town. Bob Long asked if Rick was talking about paying the logger and the forester. Rick said any expenses. Mr. Long stated that those things were reconciled when the payments come in from the pulp mill. David Long stated that the District was paid last. The logger is deducting what he is owed. Tom Friel stated that the logger, Mr. Harris, was shaking his head yes. Rick’s next question was since the revenue should be that of the Town, since it’s Town property, is the Board within their rights as a Selectboard, to send some of the revenue to one Precinct. Attorney Whitley stated that the Board could do that, but it would require Town Meeting approval. Tom Friel felt that the Board needed to write up a Warrant Article to find out what the Town wanted the Board to do. Chairman Fortier explained to Tom that in writing the Warrant Article, it had to be specified whether the Town wants to keep the property for a specific purpose or whether the Town is willing to let the Board deed over the property. Attorney Whitley commented that that seemed to be the first hurdle the Board and townspeople need to come to a determination on. TM English asked Attorney Whitley if that could all be done in one Article and Attorney Whitley thought it could be done in one Article. It may be a little cumbersome and need explanation at Town Meeting, but it could be done. Lynn commented that she didn’t think she wanted it done compounded. Chairman Fortier again asked about Board consensus of where the Board wanted to go as far as the three options before talking about going to Town Meeting or writing an Article. Tom again thought they should go to Town Meeting. Rick commented that there was no recommendation coming from the Board. Chairman Fortier stated that townspeople would want some direction from the Board and have a strong sense of how the Board was thinking in relation to how they reconciled this issue. Tom again stated that the Board needed to go with a Warrant Article. It was his feeling that if this got voted down, then the Board needed to sell the lot. Robert asked if any of the Board thought the Town of Haverhill was looking for more public park land and expend the time and energy to maintain it. Tom stated that that was why there was a Town Warrant to find out what the Town wanted and no

conjecture. TM English stated that the Board needed to lead the townspeople through this and come up with a concrete proposal that is a yes or no and to not build in any contingencies. It would be too complicated. Bob Long asked if the Board had read the editorial in the last issue of the Journal Opinion and the Board stated that they had read it. He felt that the objective made a lot of sense. He again stated that the Forestry Committee was doing this for the benefit of everyone in Town. Chairman Fortier stated that public lands have been on the Town's mind since before the revision of the Master Plan in 2008. Back in 2000, it talked about trails and public use of land.

Chairman Fortier asked the members of the Board if they wanted to put the property up for bid to the highest bidder. The answer was no. Chairman Fortier stated that that then left two (2) statutory legal options left. One was to go to Town Meeting to see if the Board can get approval to keep the property for a specific purpose. If the Board wanted to maintain their legal right to ownership of the property for the purpose of enhancing trails along a similar line and vision of what Mountain Lakes has done, would it be the Board's intention to maintain ownership of the property with some sort of agreement with Mountain Lakes? Tom stated that if that was done, it should be turned over to Mountain Lakes. The next option was to go to Town Meeting and specifically ask that the land be turned over to a specific entity. Attorney Whitley stated that you ask for the power to sell the land to a single, appropriate buyer. The Board did not need to identify who the buyer was in the Warrant. Rick Ladd asked if that left it open to any buyer and Attorney Whitley stated that if a specific buyer was not mentioned, then the answer was yes. Rick asked if there could be some kind of arrangement much like the informal arrangement they have with the Common in Haverhill Corner be made. This arrangement is the Town owns the land, but the Precinct maintains it. Attorney Whitley said that it could be done and one way is to put a covenant in the deed when it is conveyed to a third party. Another way would be with a conservation easement, which also requires going to Town Meeting. Lynn commented that the Board would retain ownership of the property and the third party would be given a conservation easement, much like Upper Valley Land Trust. Attorney Whitley stated that it could be done that way, but it could be done reversely. Robert asked if the property was logged, who would get the revenue. Attorney Whitley stated that he thought that it would be worked out with whoever was on the other side of the transaction. There was a brief discussion of the uses of the property, such as hiking and hunting. Rick stated that to make a decision the Board needed to know what to put in the covenants and shouldn't the Board take some time to do it right. TM English stated that he had a request. This was the second meeting that the Board has had Attorney Whitley attend and it was costing the Town money to have him there. His request was if they needed to further discuss the issue, did they need to have the attorney there. He was just trying to hold expenses. Chairman Fortier asked Attorney Whitley if the Board was inclined to going to Town Meeting and getting permission to maintain the property themselves with a specific purpose, do they still need covenants for that. Attorney Whitley stated that no because the Board would be going to Town Meeting and saying the Town wanted to retain ownership of the parcel. If they were doing that, they are the owners of the parcel. Lynn stated that the Board would benefit by retaining ownership of the property and then establish the conservation easement with the District. The District would benefit and so would the Board. It was her thought that everyone could benefit if it was set up the right way.

Chairman Fortier asked Jeff Page if he currently utilizes the property in any way. Mr. Page stated that there was a fence that was put there, not by him, but by the previous owner. He has been maintaining that fence for over 20 years now and it goes down through the woods. Chairman Fortier asked Mr. Page if he maintained the fence, obtained hay or used it for pasture. Mr. Page stated that he used it as pasture because it keeps his animals in. Lynn asked if it was by the surveyed line or was it a random line that was put out. Mr. Page said it was not by the surveyed line and Lynn stated that it then needed to be corrected. Attorney Tensen stated that there was a boundary line dispute because before the Town took title, that property had been taken by adverse possession. There is a boundary line dispute pending. Lynn asked who took by adverse possession. Attorney Tensen stated that when the fence was originally put up, they took that property and used it before the Town ever took title. Tom Friel asked how long and Attorney Tensen stated that it was over 30 years. Attorney Tensen stated that that was something that they hadn't gotten into because they were going to claim that Mr. Page owned the land up to the fence

line. He then stated that there was other property in Mountain Lakes that they hadn't even gotten into. Mr. Page was interested in that property. Attorney Tensen stated that having a park on that property would be Mr. Page's "worst nightmare". Lynn asked how many acres they were claiming in adverse possession and was it based on the old survey. Mr. Page stated that it was between seven (7) and twelve (12) acres. Mr. Page also commented that he has always had a problem with any improvements on the old Class VI road because the town threw up a lot of roads. That road used to be graded twice a year, once in the spring and once in the fall, for access for the farmers. When the Town gave that up, the taxes to the Town from the half dozen landowners wasn't worth maintaining that road. His point was that there would have to be culverts put in and he wouldn't be inclined to give an easement to anybody for moving water around his property to improve a road. He said the farmers were not worth maintaining the road for them, but for someone else, the Town would maintain the road. Lynn wanted to clarify that if the Town decides to retain the land, and the 7-12 acres in dispute would mean Mr. Page was prepared to sue the Town. Mr. Page said yes. Attorney Tensen stated that they didn't believe it benefited the taxpayers. It is their belief that that is Page land. Mr. Page commented that he believed there was approximately 450 more acres that were in question and that was a big chunk of change. Rick commented that he agreed with the issue of revenue. If any revenue was coming in and it was Town property that was being sold, the Town should have that revenue. It is correct that the Town is looking for revenue. Chairman Fortier stated that Mr. Page had mentioned the 450 acres at the first meeting and the Board still didn't know if they owned it and were they looking into it. TM English stated that they were. Tom Friel stated that the Board needed to deal with this parcel and worry about the others down the road. Chairman Fortier stated that the Board needed to find out what they owned and didn't own. Tom again stated that the issue should go to the voters. Lynn and Rick agreed with Tom and Robert did not. David Long was thinking along the lines of asking the Town to approve the sale of a certain parcel of land to Mountain Lakes District for recreational purposes to be developed. That would go in line with the Town's large goal to have public space with trails and recreation as opposed to the Town maintaining the land. Robert Roudebush stated that he agreed with David Long to ask the Town voters to allow the Town of Haverhill to sell this lot to a specific entity for purposes of conservation or public use. Mountain Lakes indicates an interest in the purchase of the property. TM English recommended the Board recess the meeting and have a conference with their attorney since they have been threatened with legal action and should consider that.

Rick Ladd made the motion to recess the meeting at 7:10 PM to confer with Town Attorney Steven Whitley; seconded by Tom Friel and carried unanimously.

The public meeting was back in session at 7:42 PM.

- **Mountain Lakes-Town of Haverhill Lot:** Chairman Fortier stated that the Board has discussed the issue and decided that they would not make a decision tonight. They were going to take the matter under advisement and will address this issue at a later date. All parties would be notified of that date via a regular scheduled meeting. Mr. Page asked how they would be notified and Chairman Fortier told him by the Agenda, which is posted on the morning of the meeting or on the Friday before. They could also call the Selectboard Office. Tom Harris, the logger, stated that the revenue from the cut goes through the forester, Harry Burgess, and Tom pays him every week. He asked if they wanted Harry to set up an escrow account for the Town, instead of going into the Mountain Lakes District account. Lynn asked if that was where it was going now and Tom said it was. Rick thought it should go into a Town account. TM English stated an escrow account would be fine and Tom could continue his cut and they are generating revenue. Tom would give the money to Harry and have him go in and see AA Lacaillade.
- **Update of Fire Inspection Form:** Chairman Fortier stated that some of the Board members met with the Precinct Commissioners after the last meeting and they went over the form. Fire Chief Jeff Robbins wasn't there, but Steve Robbins was. According to the State Fire Marshal, the form needed to have some sort of appeal process for the owner. When Chairman Fortier asked the Chair of the Commissioners

would he go along with the use of the form, his answer was he couldn't make that decision without input from the Fire Chief, who wasn't there. Steve Robbins told Chairman Fortier that they would try to utilize the form. Chairman Fortier told him that the present form was the one the Board wished for them to use and Steve said they would try to utilize it. Chairman Fortier tried to get hold of Jeff Robbins, but he was at a training and couldn't be reached. He would try again the next day. Chairman Fortier stated that they would go ahead with the form unless the Board felt otherwise. There was a discussion about how many forms were needed per inspection and it was decided that it needed to be three (3) copies, one to the property owner, one to the Town, and the original would stay at the particular precinct. The Town needed a form for reimbursement. TM English asked when he gets the form and it's not completely filled out, do they get paid and the answer was no. Chairman Fortier stated that what the Town has and what the Fire Chief has must be the same, in case of court action. Chairman Fortier asked TM English where they were on the Fire Inspection applications. TM English responded that they were nowhere. Four applications were received, three of which were out of state. Two have dropped out due to it being a part-time job and one standing application from someone in Washington, DC. There is an application from a local inspector who has been through the process but the Fire Chiefs do not want this person. Chairman Fortier asked if it was all of the Chiefs and TM English stated it was primarily Woodsville. Chairman Fortier stated that they would try the form and see if it works.

- **Capital Improvement Plan Review:** Chairman Fortier asked TM English if he had any updates. TM English spoke about the leaking sewer line and there needed to be something in place for its eventual replacement. He has been talking with the USDA, which is a very good organization to do business with because they have money. They do community facilities application; they will fund 75% of a planning and engineering study so the Board can determine what they have and what construction costs could be. Such a study will run between \$40,000 and \$50,000; they will fund 75% of that. With the Board's permission, TM English will fill out an application for the planning and engineering study, not the construction. If the Board decides later on to go into construction, the USDA also offers grants to do that, which are also 75-25% or 70-30%. Chairman Fortier asked if the engineering study would tell the strengths and weaknesses of the current line and TM English stated that it would. Rick Ladd thought that the Board should do the grant. With the Board's permission, TM English was going to put the planning and engineering study into the budget process and apply for it. It was the consensus of the Board that TM English proceed.

New Business: None

Commission/Committee Reports: Lynn reported that Haunted Happenings was Saturday, October 24, at the Robert E. Clifford Memorial Building. The younger children were from 5-7 PM and the older ones were from 7-10 PM.

Correspondence: Chairman Fortier stated that the Board had an e-mail from TM English concerning North Country Council's meeting about highway costs. The meeting is November 3, 2015 from 5:30-7 at the JRM Building. On Thursday, November 19, 2015, at 11:00 AM, there is a Thanksgiving dinner at the Senior Center. The Senior Center has asked for the Selectboard to attend and help out and Chairman Fortier responded in the affirmative. There was also correspondence regarding the NHMA 74th Annual Conference, which is November 19 & 20, 2015. The guest speaker is Captain Phillips.

Comments of the Public: None

Comments of the Town Manager/Administrative Assistant-Finance Officer: AA Lacaillade mentioned that she had gone online earlier in the day and reported that two of the SAU reports had been uploaded to the portal. There is at least one more, which is just a signature page. That would just leave one form for Woodsville. TM English mentioned to Chairman Fortier that if he spoke with Maryanne Aldrich about funding for the hospital to mention that the USDA was also a source for the hospital. She could contact TM English and he would put her in touch with the proper people.

Comments of Selectboard Members: Rick Ladd mentioned that there was a dedication of the Rowe Medical Center on October 22, 2015 from 5-7 PM. Rick also mentioned that Northern Pass filed with the SEC to require consideration of local board input. A motion was made to delay taking action and they applied the next day. AA Lacaillade asked about the map of their plan for the Northern Pass and Rick stated it was online. TM English commented that he was a member of the North Country Byways Council. They were asked to provide input on the environmental impact statement and how the portion of the line that is currently still going to be above ground would affect scenic views in those byways. His committee, led by Carl Martland, did a wonderful, factual analysis of the effect that this project would have on scenic views. It was a very interesting report. Chairman Fortier stated that he had received an e-mail concerning a fire equipment committee meeting on October 26, 2015 regarding a new Haverhill Corner fire truck.

Adjourn Meeting: Robert Roudebush made a motion to adjourn; seconded by Lynn Wheeler and all approved. Chairman Fortier adjourned at 8:09 pm.

Minutes transcribed by Karen Hyde