

BOARD OF SELECTMEN

Minutes of May 17, 2004

ROLL CALL: Chairman Alan Carpenter called the meeting to order at 7:00 PM. Those present included Selectmen Bruce Breton, Chris Doyle, Galen Stearns and Roger Hohenberger. Mr. Sullivan was also present. Mr. Carpenter read the agenda into the record.

ANNOUNCEMENTS: Mr. Wally Ramsden, Post Commander, announced that permission had been given to the American Legion to repair/refurbish the Persian Gulf Memorial kiosk located in the Town Center. The work will be completed by Mr. Mort Pearlman's son sometime in the near future.

Mr. Ramsden announced that receptacles have been placed around Town for deposit of retired flags for disposal at the upcoming Legion burning ceremony, and that the Legion would also be holding an MIA flag ceremony at the Nesmith Library on Wednesday at 7:00 PM.

Mr. Morton Pearlman approached the Board regarding the Annual Memorial Day Parade. He stated that, in the past, ball games had been underway at Roger's Field during the memorial ceremony at the Cemetery on the Plain. As the noise and activity of the games detract from the solemnity of the ceremony, he asked that the Board try to ensure that no games be played during that time.

Mr. Sullivan apologized to the general public for any difficulties experienced attempting to reach the Town offices. He explained that, over the previous weekend, lightning had caused damage to the lines in the Town Hall, Planning Department, and Administrative Office. In the interim, as they are repaired, Mr. Sullivan asked that residents feel free to email their questions or concerns.

Mr. Breton, on behalf of the Town Clerk, reminded all that May 31 is the last day to register their dogs without penalty, as on June 1 fines will be imposed. To date, there are 600 +/- dogs still unregistered.

Mr. Stearns extended thanks to the Maintenance department for their work in constructing the new footbridge on the Town Common, which is nearly complete, with the exception of the ramps. Mr. Stearns praised the staff for a job well done.

LIAISON REPORTS: Mr. Hohenberger updated the Board on the meeting between the Lowell Road Bike Path Committee and the State. He stated that the road had been surveyed and trouble spots identified.

Mr. Sullivan advised the Board that, due to research efforts by Maintenance Supervisor Al Barlow, the Historic District/Heritage Commission has approved pressure washing/cleaning of the Town Hall and Planning Department prior to their painting. Bids will be solicited shortly, and the buildings will undergo low pressure washing, mildew removal, and painting sometime thereafter.

Mr. Hohenberger inquired whether these methods will address the peeling problems. Mr. Sullivan stated that this is the best approach available, but not necessarily 100% preventative. Mr. Carpenter questioned why re-siding the buildings was not an option. Mr. Stearns indicated that the HDC would not approve such a measure.

Mr. Breton moved and Mr. Doyle seconded to recess to the Board of Health. Passed unanimously.

BOARD OF HEALTH/FISH ROAD: Mr. Turner advised the Board that, in response the Board's request at the April 19, 2004 meeting, Mr. and Mrs. Keenan had pinpointed the location of all area wells, mapping out same for the Board's review.

Atty. Notaris, representing the Keenan's, advised the Board that all area wells are outside of the required 100', with the exception of 19 Fish Road, which is 92' from the proposed septic system/leach field. She also noted that, currently, this particular well lies only 81' from the existing system.

Mr. Mike Seever, Engineer, gave a brief explanation of the graphic detail depicting the 100' radius and located wells. He reiterated that, with the exception of the Keenan's well at 57', there is only one other well within the 100' radius. Mr. Turner advised the Board that staff has been monitoring the area, and no problems had been discovered.

The following abutters reiterated their concerns voiced at previous meetings regarding proximity, future owners' compliance, run-off to the pond, conversion of seasonal properties, and the Board's adherence to current regulations: Cathy Rondeau, Kevin Malone, Tim Cluff, and Marie Brown. Mr. Richard Berry, 13 Elm Street, also spoke to the Board's setting a precedent by approving a waiver of established rules.

Mr. Bob Grue, 13 First Street, spoke in favor of the request, stating he believed it was an improvement over the current situation and a good opportunity to evaluate this type of septic system.

Mr. Breton inquired of Mr. Turner what would happen if the existing system were to fail. Mr. Turner stated it would have to be replaced, and reiterated that testing of run-off from the Keenan's property has shown no signs of bacteria.

Mr. Carpenter noted that the physical dimensions of the lot prohibit conformity to the current regulations. Mr. Hohenberger expressed concerns about the importance of the neighbors input, and noted that the area was designed to be seasonal/recreational in nature and year-round residence was not the original intent.

After further discussion, Mr. Hohenberger moved and Mr. Doyle seconded that, in the interests of protecting Cobbetts Pond and there being no evidence of imminent failure of the existing system, the request for waiver of the setback requirements to allow a septic system within 57' of an existing well be denied. Passed 6-0.

BUILDING PERMITS/PRIVATE ROADS: Mr. Sullivan requested that the Board postpone the discussion to approve issuance of building permits of private roads, as comment had not yet been received from the Planning Board. Mr. Kovac, one of the applicants, requested an opportunity to speak to his request, which was granted. Mr. Kovacs made a brief presentation to the Board regarding his property on Viau Road, noting that his variance has been approved and the building razed. After a few, brief questions by the Board to Mr. Kovacs, discussion of 15 Viau Road and 82 Turtle Rock Road was postponed until May 24, 2004.

The Board took a five minute recess.

WORKSHOP WITH PLANNING BOARD: Mr. Carpenter noted that the purpose of this meeting was to clarify the actions and processes that took place in clearing an area of a Class VI road; how it happened, ensuring it doesn't happen again, and mediating the impacts.

Mr. Turner reviewed a timeline of events leading up to the clearing of Hopkins Road and stated that, in hindsight, he would have approached the Board for input regarding Hopkins Road, however historically such matters have been handled by the Code Enforcement Officer. He noted that he had reviewed videotape of the previous meeting several times, and that Town Counsel indicated that he and the Planning Board were within their authority. He believed that, in looking at the August 18, 2003 meeting again, it was not necessarily clear that the Board wanted no cutting at all on Hopkins Road, and noted that several subdivisions had since been approved including similar trail upgrades.

Mr. Turner noted that revisions had been drafted to clarify the Right-of-Way ordinance to prevent future occurrences.

Mr. Breton questioned several points on Mr. Turner's timeline and calendar, and inquired specifically about a meeting with Town Counsel noted as taking place on October 28. Mr. Turner stated he believed he had met with Attorney Campbell to discuss covenant issues.

Mr. Carpenter inquired why the applicant had not used their intended easement as shown on the plan. Mr. Turner thought perhaps the applicant's intent was to move the road further away from the neighbors.

Mr. Hohenberger stated that, although he had made the motion to approve the plan inclusive of the access road to the detention pond, he did not envision what subsequently occurred. He noted that this does, however, happen often, on cul-de-sacs for example, and is never brought before the Board. He suggested that the procedures need to be changed.

Mr. Ross McLeod, former Chair of the Planning Board, explained that the subdivision's detention pond required an access road. The developer's right-of-way was very close to two homes and it was deemed more prudent to put the access along Hopkins Road, which needed to be cleared to a certain degree to allow heavy equipment access. Mr. Carpenter asked of Mr. McLeod if what happened was what he had expected. Mr. McLeod indicated that it was.

Mr. Turner explained that the old trail will be allowed to grow over, and that the area that is currently disturbed will not always be so, as the developer will re-grow the area from the silt fence in with vegetation to narrow the roadway.

Mr. Doyle expressed concerns that, as such an extensive area has been cleared, the Board would have difficulty denying a future request to reclassify Hopkins Road should one be submitted. Mr. Turner felt that other issues for denial of such a request are still valid.

Mr. Carpenter read into the record a letter from Mr. Bob Coole regarding the Town's loss of revenue for the timber and expressing aesthetic concerns.

Mr. Al Lemay, abutter to Hopkins Road, expressed several concerns including: lack of notification to him as an abutter; further clear-cutting on opposite side of Hopkins Road; and, damage to his property due to construction.

Mr. Dennis Senibaldi, resident, questioned again why the 16' roadway was never mentioned previously by Mr. Turner and who proposed moving it. He noted he didn't feel it was necessary to go along Hopkins Road, when the other two homes in question were not yet built. He asked that the Board look into Mr. Turner's 10/28/03 meeting with Town Counsel, as well.

Mr. Joe Vachon, owner/developer, stated that he did not recall who specifically suggested moving the access road to Hopkins Road, but recalls extensive talk at Planning Board meetings and with other developers regarding the possible future development of Hopkins Road. He noted that he is willing to move back to the original easement and re-plant Hopkins Road with natural vegetation.

Mr. Turner noted he thought Mr. Vachon's engineer may have proposed the move after the trail upgrade that took place as part of the Mitchell Pond Extension.

After brief discussion of procedures, Mr. Breton moved and Mr. Stearns seconded that, until further notice, all Right-of-Way issues will be brought before the Board of Selectmen for review. Passed unanimously.

Mr. Senibaldi approached the Board again to reiterate his previous comments and urge the Board to correct the issue at hand.

Ms. Lisa Linowes, Conservation Commission, presented a letter to the Board from the Commission. She stated that the Commission was not aware of the access road, as it does not receive full sets of plans, nor did she recall it being discussed at any meetings. She stated that, as a rule, detention ponds of this magnitude do not require regular maintenance. She noted that there is a propensity in Windham to build large access roads, separate from drainage easements.

A discussion ensued regarding the appropriateness of reading the Conservation Commission correspondence into the record, which was deemed to be inappropriate as it dealt with a personnel matter.

Mr. Turner noted that the access road was discussed by the Planning Board on several occasions and that the detention pond would require heavy maintenance for at least the first three years.

Mr. Hohenberger inquired as to what state the area could be returned to. Mr. McLeod suggested that the Board meet with the Trails Committee to discuss the matter.

The Board requested that Mr. Sullivan contact Attorney Campbell to obtain his recollection of the October 28, 2003 meeting.

Mr. Carpenter inquired of Mr. Turner why he didn't approach the Board regarding the access road. Mr. Turner noted that, at the time, the Department was facing staffing issues and that there was no indication to him that it was necessary.

Mr. Carpenter noted that the Right-of-Way ordinance will be addressed and a meeting with the Trails Committee scheduled for May 24, 2004 to discuss mitigation. He extended his thanks to all for their attendance and input.

The Board called a five minute recess.

WORKSHOP/CONSERVATION: Due to the lateness of the hour, the workshop with the Conservation Commission was postponed.

MINUTES: Mr. Doyle moved and Mr. Hohenberger seconded to accept the minutes of April 26 and May 3, 2004. Passed unanimously.

CORRESPONDENCE: *Letter* received from Pennichuck Waterworks announcing several informal meetings planned over the next three weeks to discuss issues related to the future control and operations of the corporation. The dates are as follows:

May 19:	8:30A to 10A	and	4:30P to 6P
May 20:	8:30A to 10A	and	4:30P to 6P
May 26:	8:30A to 10A	and	4:30P to 6P
May 27:	8:30A to 10A	and	4:30P to 6P
June 2:	8:30A to 10A	and	4:30P to 6P
June 3	8:30A to 10A	and	4:30P to 6P

Letter received from Mr. Thomas Case expressing his concerns that the “No Parking” signage on Lexington/Ledge roads is excessive.

The issue of covered “Stop” signs on Heritage Hill Road was raised. Mr. Sullivan noted that they had been installed by the developer for future consideration. As to Lexington/Ledge roads, Mr. Sullivan stated he had spoken to the Police Chief and Highway Agent, and the consensus was that they were needed due to where people had been parking. The signs are in keeping with standard procedures. Mr. Case approached and reiterated his belief that the number was excessive, and noted that the Town ordinance doesn’t specifically prohibit parking there. He suggested the Board revise the ordinance then post the signs.

OLD BUSINESS: Mr. Sullivan presented the Board with a draft charge for the Depot Road Advisory Committee for discussion on June 16. Mr. Doyle expressed a preference to discuss it at the next workshop session, and Mr. Carpenter asked that the members submit any comments to Dave prior to next week.

NEW BUSINESS: Mr. Sullivan presented for review an article taken from the Eagle Tribune regarding the Transportation Council. He stated that he and Human Services Coordinator Kathy Davis were working with Mr. Vogel regarding placing our van in the program pool. Mr. Vogel will attend the June 14 meeting to discuss this program further.

Mr. Sullivan advised the Board that the Historic Committee is working on planning a dedication evening for the Searles School/Chapel, and was looking for convenient times for the members. After a brief discussion, the members concurred that July 1, 2004 would be a good date for them to attend.

Motion by Mr. Doyle and second by Mr. Stearns to enter into non-public session in accordance with RSA 93-A:3 a, c.

Motion was tabled at the request of Mr. Carpenter, as there was one more piece of correspondence to address.

CORRESPONDENCE, CONT: Mr. Doyle moved and Mr. Hohenberger seconded to approve a pole license for Verizon on Hancock/Morrison roads. Passed 4-0-1, with Mr. Carpenter abstaining.

NON-PUBLIC SESSION: Motion by Mr. Doyle and second by Mr. Breton to enter into non-public session in accordance with RSA 93-A:3 a, c. Roll call vote: all members “yes”. The subjects were personnel and reputations. The Board and Mr. Sullivan were in attendance.

The Board and Mr. Sullivan discussed granting of an Elderly Exemption. Mr. Hohenberger moved and Mr. Stearns seconded to approve the exemption application. Passed unanimously.

The Board and Mr. Sullivan discussed a previously approved forbearance agreement. Mr. Hohenberger moved and Mr. Doyle seconded to allow Mr. Sullivan to execute the agreement on the Board's behalf.

The Board and Mr. Sullivan discussed a personnel matter. Mr. Sullivan will arrange for follow-up correspondence.

Mr. Stearns moved and Mr. Hohenberger seconded to adjourn. Passed unanimously.

The workshop was adjourned at 11:45 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

Note: These minutes are in draft form and have not been submitted to the Board for approval.