

**MINUTES
BOARD OF SELECTMEN
TOWN OF PEMBROKE, NH
Wednesday, December 5, 2007 at 6:30 PM**

Present: Chairman Brian Tufts; Selectman Larry Preston; Selectman Fred Kline;
Selectman Cindy Lewis

Staff: Geoff Ruggles, Town Administrator

Excused: Selectman David Sheldon

1. CALL TO ORDER

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

2. MEETINGS

Roads Committee - Beacon Hill Road Subdivision

Paulette Malo, Oscar Plourde and Floyd Smith attended the meeting to state their position on the Beacon Hill Road Subdivision and the Board's decision not to open a portion of Third Range Road. It is their contention that it would be in the Town's best interest to open the portion of Third Range Road rather than the developer building a new road parallel to it. Ms. Malo stated that the Roads Committee feels that a Class 5 and Class 6 road should not run side by side and that the developer is willing to incur the expense of opening Third Range Road versus building a new road. There is also some concern over additional drainage issues if a new road is built.

Mr. Smith informed the Board that the developer, Leo Dumont, is willing to take on a large part of the expense of upgrading Beacon Hill Road which would save the Town approximately \$220,000.

Chairman Tufts informed the Roads Committee that because the request to open Third Range Road has been denied, Mr. Dumont must come back before the Board to present any new information he has obtained in order to begin the approval process again. The Board would then decide if there has been enough change to warrant and approve it. Mr. Dumont must also go to the Planning Board with his request to build a new road if opening Third Range Road is denied.

Chairman Tufts thanked the Roads Committee for their time and effort.

Conservation Commission

Ammy Heiser, Chair, Lea Anne Atwell and Laura Scott, Consultant, were present.

Town Code Amendments

Ms. Scott described conflicts in the Conservation Commission policies with regard to managing conservation land. She explained that the Conservation Commission has adopted policies on how to manage activities on parcels of land, which has conflicting language with what was adopted at Town Meeting (1990) as well as rules and regulations governing the White Sands conservation parcel that were adopted at Town Meeting (1996). Ms. Scott feels that these conflicts must be addressed in a timely manner as it may place the town managed conservation parcels at risk because of confusion as to who has the authority to manage and maintain them as well as what standards should be used. Moving forward with the White Sands project is of concern if it conflicts with what was adopted at the 1996 Town Meeting. Ms. Scott suggests that a warrant article be drafted for the 2008 Town Meeting to repeal sections 66-2 - 66-5.1 and 66-7 - 66-9 of the Town Code.

The Selectmen discussed this issue at length and clarified where the conflicts lie. Selectman Preston stated that it is unclear why the Conservation Commission wrote a policy that conflicts with Town Code. Chairman Tufts asked Mr. Ruggles to draft a letter to Town Counsel asking that if the Selectmen took on a warrant article asking to remove sections 66-2 - 66-5.1 and 66-7 - 66-9 of the current Town Code, and leave in place the adoption of the June 7th regulations by the Commission, is all the authority still intact for the Commission and can the Town at any town meeting change or restrict the authority. Additionally, if this change is made, what are the impacts, if any, and has the town lost anything or has the Town Code just been better clarified. Mr. Ruggles will draft the letter on Thursday and will update the Board on the response he receives.

Scripture Easement

Mr. Joe Tyler, owner of the property in question was present along with the Conservation Commission to discuss the Scripture Easement. Mr. Tyler stated that the problem is he owns property located within a Conservation Easement. He was told last year that his house and barn should not be in conservation. He has had the easement reviewed by his attorney who stated that based on the language, it was fine as is. However, he understands, after multiple meetings with the Commission, that it may make sense to take a certain amount of acreage out of conservation because it does not make sense to have personal property located within conservation property. Ultimately, he would like a more clear and concise understanding of what he can and cannot do and would like to be able to do whatever any other homeowner can do.

Ms. Scott stated that the Conservation Commission is proposing that a change be made that would include removing 2 acres from the easement. Presently, the landowner is being taxed for approximately 2 acres at full residential tax rate and 8 acres at the current use rate for a conservation easement. The Conservation Commission and Mr. Tyler have been working together to manage the property issues and so far no conflicts have arisen. However, Ms. Scott feels that there is a possibility of conflicts in the future. Ms. Scott informed the Board that the Conservation Commission held a public hearing on November 19, 2007 for this proposed change, legal counsel has reviewed the proposed changes and the process that has been laid out and found no problems. The Commission approved bringing the change to the Selectmen.

Town Meeting would have to authorize the easement being changed. The Commission is asking that it be put on the warrant article, that the Conservation Commission use conservation funds to draft a new legal easement to have a survey done of the 8 acres to be in the easement and to record these at the registry of deeds. By doing this, Ms. Scott feels that this will prevent any future conflicts. Chairman Tufts asked if this would affect the "match". Ms. Scott stated that it would not as the intent was to have it in conservation which it still would be and no changes would be made to the easement. And, considering the "match" was based on value, it is actually valued higher today than it was originally.

Mr. Gordon Riedesel was Chairman of the Conservation Commission from 1986 through 1994 during which time this acreage was donated to the Town by Ms. Charlotte Scripture. Mr. Reidesel shared a little background and history on Ms. Scripture including some of her reasons for donating the land. He feels that based on her love of the property, she would not have wanted the parcel split up.

Selectman Preston opened a discussion regarding the costs involved. He does not feel that taxpayer dollars should be involved in spending \$6,000 to correct a problem that does not exist. Selectman Lewis agrees and is also concerned that if this change is allowed this easily, it would open the door for other easements to be amended when they have always been done on a permanent basis. Selectman Preston pointed out that Mr. Tyler bought the property knowing the requirements and restrictions of owning property located within a conservation easement. Mr. Tyler has agreed to submit a management plan to the Conservation Commission for review and possible approval which may alleviate the issues.

Ames Brook Easement

The Conservation Commission is requesting that the Board accept the Ames Brook Easement. Ms. Scott explained that the conservation land is located in the back of the proposed subdivision on North Pembroke Road and there is access to the land from a Range Road and North Pembroke Road. Selectman Lewis explained that it has been the policy of the Selectmen not to accept easements until the work is complete. Ms. Scott also pointed out that the bridge has already been built, all markers are up and her concern is that should the Board not accept the easement, the markers would have to be removed and the baseline redone. Chairman Tufts stated that he would not be opposed to accepting this particular easement due to the fact that there is access to the property but that a precedent must not be set on accepting other easements before the work is done.

Action: Selectman Kline moved to accept the Ames Brook Easement. Selectman Tufts seconded. Motion failed 2-2. Selectman Preston and Selectman Lewis were opposed.

Ms. Scott asked if the developer should take down the signs that read "Town Conservation Easement Area". Chairman Tufts stated that the signs should be removed.

The Selectman briefly discussed liability as it pertains to easements.

3. CITIZENS COMMENT

Harold Thompson expressed his concerns regarding easements.

The Selectman discussed current use versus open space for cluster subdivisions and how they are assessed.

4. OLD BUSINESS

Noise Ordinance

The noise ordinance developed by Chief Lane was distributed for the Selectmen to review. The ordinance has been reviewed and revised by town counsel. Mr. Ruggles explained that this ordinance would be required to go to Town Meeting for adoption. There was some discussion on whether the ordinance contained elements that would resolve the issue that initially brought about the need for a noise ordinance. The Selectmen agreed to the ordinance and made no changes.

Action: Selectman Kline motioned to move forward with the Noise Ordinance. Selectman Lewis seconded. Motion passed 4-0.

2008 Budget Update

Mr. Ruggles reviewed two budget updates explaining that neither change affect the bottom line or the tax impact. First, an employee has requested tuition reimbursement for college course tuition. Mr. Ruggles explained that since the employee is declining insurance coverage, funds are available to cover the tuition costs. He is requesting that \$1,000 be moved from Health Insurance - TA to Tuition Reimbursement - TA. Second, the appropriation of funds for the operation of the new ambulance service formed under an inter-municipal agreement. The first year appropriation would be half of the estimated annual operating cost of approximately \$420,000. There would be no impact to the tax rate as there would be offsetting revenue to compensate for it. Pembroke will act as the host town and administrator of the fund.

5. NEW BUSINESS

Minutes

November 28, 2007

Action: Selectman Preston moved to approve the minutes of November 28, 2007 as amended. Selectman Lewis seconded. Motion passed 3-0. Selectman Kline abstained.

Manifest

Action: Selectman Preston moved to approve the manifest as presented. Selectman Lewis seconded. Motion passed 4-0.

Tax abatements, exemptions & credits

Action: Selectman Preston moved to accept as recommended by the assessor. Selectman Lewis seconded. Motion passed 4-0.

Town Administrator Report

Mr. Roger Duquette, Custodian, will be retiring at the end of the year. Mr. Ruggles would like to upgrade the position to include maintenance.

See attached TA report for a complete list of updates.

Committee Reports

None

6. OTHER / CITIZENS COMMENT

None

7. ADJOURNMENT

Action: Selectman Kline moved to adjourn the meeting at 9:23 PM. Selectman Preston seconded. Motion passed 3-0. Selectman Lewis was not present at time of vote.

Accepted by the Board of Selectmen

Brian Tufts, Chairman