

**BOARD OF SELECTMEN
TOWN OF PEMBROKE, NH
December 29, 2022 at 5:00 PM**

Present: Selectman Karen Yeaton, Selectman Richard Bean, Selectman Peter Gagyi, Selectman Rick Frederickson, Selectman Sandy Goulet

Staff: Town Administrator David Jodoin

Excused: Selectman Sandy Goulet

I. Call to Order:

Chairman Yeaton called the meeting to order at 5:00pm.

II. Manifests/Abatements

Selectman Goulet made a motion to accept the manifests and abatements as presented. Selectman Frederickson seconded the motion. Motion passed 5-0.

III. Finalize 2022 Encumbrances

Selectman Goulet made a motion to finalize the 2022 encumbrances as presented. Selectman Frederickson seconded the motion. Motion passed 5-0.

Police Chief Gaskell discussed the purchase of a 2023 7x16 enclosed trailer to hold and transport the departments two 4-wheelers since the old trailer is too small to fit the new machines. The old trailer will be moved to DPW to transport election equipment since that trailer purchase, which was approved last year, was never made. The cost of the new trailer is \$6,995. David explained there is money in the current year budget for this purchase.

Selectman Goulet made a motion to accept Chief Gaskell's proposal to purchase a new trailer in the amount of \$6,995. Selectman Bean seconded the motion. Motion passed 5-0.

VJ Ranfos, DPW Director, discussed the culvert replacement on Borough Road. Mike Vignale, Town Engineer, put the project out to bid again and 8 companies responded with bids ranging from \$101,550 to \$384,000. The lowest bid came from a company out of Vermont. Mike checked references, background checks, and did his due diligence and is comfortable recommending the company. The Selectman discussed the other companies who bid and their comfortability with Merrill Construction even though they may not have been the lowest bid. Merrill Construction is local and has been used many times over the years on other projects.

Selectman Goulet made a motion to award the bid to Merrill Construction for the culvert replacement on Borough Road. Selectman Frederickson seconded the motion. Motion passed 4-0. Selectman Bean abstained.

VJ Ranfos discussed the need for repair of approximately 660 feet of Robinson Road from Wellington Road to the Chichester town line. There is some money left in the paving line that can be used for this purpose. Advances Excavating gave an estimate for \$25,418.

VJ Ranfos explained the developer of the old Village School (30 High Street) was working with the Water Department to upgrade the water lines. It is the opinion of DPW that the contractor damaged an old water pipe while they were digging for new utilities. DPW was not aware of these lines being there since they were not shown on any town plans. The line runs under the old school, under their parking lot, and out to a catch basin. This damage caused the water to back up into a drain that then backup into a resident's house at 2 Simpson Ave. The digging work was done in September and the back up happened in December during the last rain/snow event. The property owner of 30 High Street does not want to go back and dig up the area the damage happened since he has completed upgrading all the utilities in that area. He would like to see the water diverted to a different area. VJ believes that in the long-term, diverting the water would benefit the Town because if the pipe is fixed and fails again at some point enough to cause catastrophic damage to the building, the town would now be liable. The proposal is to detour the water from going under the building to going outback and dumping into an established wetland. Mike Vignale is still looking into the possibility, but the estimates are coming in at \$55,240. David clarified the owner of the property was working off the information they received from the Town and with the Water Department. The property owner is saying nothing on the town plans shows this structure. He is questioning how the Town knows that he damaged it when no one knew it was there to begin with. It could have been slowly failing over time and when he disturbed the ground, it caused existing damage to get worse. David and VJ do not feel the Town should be on the hook for the entirety of the cost. The property owner has not seen the estimate from Advanced Excavating. If they encumber the funds, they will have it available to fix the line but will work with the property owner to share the cost.

Selectman Goulet made a motion to add \$55,240 to the 2022 encumbrances. Selectman Frederickson seconded the motion. Motion passed 5-0.

IV. Public Hearing on the Board Policy Regarding Authorization of Building Permits on Class VI or Private Roads Pursuant to RSA 674:41 and Notice of Limits of Municipal Liability/Responsibility Pursuant to RSA 674:41

Selectman Yeaton opened the public hearing at 5:31pm

Bruce Kudrick, 17 Dearborn Road, stated on page 1 of the application it states a map will be drawn to scale. Bruce is concerned about the lack of specificity of who is

drawing the map. Bruce thinks it needs to be more detailed as to if it is expected from the homeowner, an engineer, or a surveyor. There is additional concern for the accuracy of the map if it drawn by the homeowner. It could incorrectly list the parameters of the road because the road as traveled has shifted. Selectman Frederickson asked what the Planning Board asks for. David answered they need a surveyor. Selectman Yeaton stated this permit is simply saying yes, you can apply for a building permit. This does not allow the applicant to update a road. It does list criteria for consideration which includes the state of the road as it exists now. Kevin explained that in 5c of this document it lists improvements the homeowner has to make to the road in order to be approved. They could be making improvements to someone else's property and not the road. Selectman Goulet explained having a surveyed property keeps people from building on other people's property where years have gone by, and the property lines are now blurry. Selectman Yeaton stated that if the applicant is on any other class road and wants a building permit, they are not required to have a surveyor and doesn't think should these property owners be treated differently than anyone else. Bruce feels they should because these roads and property lines have not been maintained. A regular town road, the road has not shifted depending on use. Selectman Frederickson said people should have to show they own the property they want to build on. Steven Whitley, Town Attorney from Drummond Woodsum, shared the cost they would be imposing on homeowners would not be insignificant. There are two types of surveys, one for the property and one for the road leading to the property. They are very different things. There are also a lot of times that surveyors will not stamp and certify the survey. That would essentially leave those homeowners with useless property. Old records or conflicting deed information can make things difficult. Letter F in this section of the document is there to protect the Selectman in this situation. It states they are not certifying the location of the class VI traveled way within the public easement and shall have no bearing on any private right of abutting landowner and or claims of encroachment.

David Jodoin stated the Selectman are the last stop in this process. The applicant would have already been through Code Enforcement, Zoning Board, and the Planning Board. Selectman Gagyí shared concerns for when they are approved to build, they have setbacks that need to adhere to and one of the setbacks is from the roadway.

Selectman Yeaton asked if it is in the Select Boards purview to know the answers to all these questions in order for them to issue a building permit. Steven answered the question for the Selectman is if the building within 200 feet and is the road safe and passable. The survey proposal has more to do with the lot than the road which makes the survey unnecessary. David shared the purpose of the survey would be to ensure the applicant is not building on the town's road, towns right of way, or someone else's property because even with the disclaimer, he is legally unsure where that would end up in the future.

Selectman Yeaton shared concerns that they are putting distinct and unique conditions on property owners on Class VI roads. Since this technically can happen anywhere, if they are going to ask this of one class of applicants, it needs to be asked of all applicants. Steven stated that any building inspector in any community doesn't know for a fact where any property boundaries are, and they have to rely on representations made by property owners. When they submit the request, the owner certifies the information is correct to the best of their knowledge. Steven is concerned if they ask for proof, they may end up mediating disputes between property owners and explained there is language to allow the Board to ask for other information that it may reasonably require.

Rosemarie Michaud, 340 Beacon Road, shared concerns that if a building permit is given, then it would technically be an opening of a road. David said if it is a class VI road, then it would stay class VI. Rosemarie asked what happens if the homeowner needs police and fire. David said they need to sign a waiver understanding emergency services may not be able to show up. Selectman Goulet stated they have to have the ability to get a fire truck on the road but sign the waiver that understand that they may not show up. This is not designed for developers. Rosemarie asked if they have discussed this with other Towns that may have this in place. Selectman Goulet stated the language is taken from state statute and there are a number of towns with these types of waivers. This type of waiver is not unique to Pembroke

Selectman Yeaton closed the public hearing at 6:24pm

Selectman Yeaton asked if there is a need to clarify "a town accepted and maintained Class V or better road" in the language "no driveway access to the principal structure begins more than 200 feet from the intersection of the class VI or private road or class V or better road giving access." Steven doesn't think there needs to be a clarifying statement because a town accepted or town-maintained road is a class V road.

Selectman Goulet made a motion to accept the amended policy and waiver as presented. Selectman Frederickson seconded the motion. Motion passed 5-0.

V. Adjourn

Selectman Goulet made a motion to adjourn at 6:45 PM. Selectman Frederickson seconded the motion, and it was approved unanimously.

Karen Yeaton, Chairman

For more detailed information, the meetings are now taped and can be seen on www.townhallstreams.com click on Pembroke NH and look for the day of the meeting under the month.