

**BOARD OF SELECTMEN
MEETING MINUTES**

July 24, 2006

PRESENT:

Douglas W. Lyon, Chair, Board of Selectmen
Mark Kaplan, Selectman
Ruth I. Clough, Selectman
Jessie Levine, Town Administrator

OTHERS PRESENT:

Bob Stewart, RCS Designs (for the Voellmans)
Frank Voellman, New London property owner
Peter Stanley, Zoning Administrator
Linda Hardy, Town Clerk/Tax Collector
DJ Lavoie, New London resident
Debbie Cross, Intertown Record
Carolyn Dube, Argus Champion

Chair Lyon call meeting to order at 8:00 AM.

Voellman Property: Chair Lyon recognized Bob Stewart, owner of RCS Design, who is present on behalf of the Voellmans of Forest Acres Road on Messer Pond. Mr. Stewart said that he is here to discuss the Voellmans' proposal to put a boardwalk on their property to cross a wetland to access Messer Pond, which borders the Town's conservation land. The Town's conservation trail currently crosses the Voellmans' property. Mr. Stewart explained that his client was worried about liability associated with public use of the trail, and had proposed exchanging the portion of his property with the trail for a portion of the Town's property. Ms. Levine said that she had e-mailed Mr. Voellman and informed him that state law gives a lot of latitude regarding liability for public use of trails over private land, which is why the Town is able to have such a vast trail system. She said her understanding of the origination of the land swap proposal was that the Voellmans' proposed dock was too close to the property line and did not meet state setback requirements. She added that the Conservation Commission has decided to reroute the trail so that the pond access would remain on Town property.

Mr. Stewart said he was under the impression that there was no access to the pond from the Town property. Peter Stanley, Zoning Administrator, said that at the last Conservation Commission meeting, the Commission decided to reroute the trail as needed to remove it from the Voellmans' property, which may involve the installation of small boardwalks to cross wet areas. Ms. Clough asked if the Voellmans are concerned that the proximity of the Town's trail to the Voellmans' proposed dock would invite use of the docks and boardwalk, and Mr. Stewart said that was part of his clients' concern but that there is still about 50 feet between the trail and the proposed dock.

Mr. Kaplan asked Mr. Stewart if the Conservation Commission's plan to move the trail changes the Voellmans' position. Mr. Stewart said that there is still the issue with the 20-foot setback from the property boundary, which is a requirement of the State's wetlands permit. The original proposal was a win-win situation, but now there will be additional disturbance to the environment if both the Town and the Voellmans construct boardwalks to the pond. Mr. Stanley said it sounds like Mr. Stewart is

suggesting that it is okay for his clients to build hundreds of feet of boardwalk through wetlands, but the Town should not build 50 feet. He would agree that it would be better for the environment for both parties to do nothing. Ms. Levine said she did not see the original proposal as win-win, as it suggested that the Town swap a large piece of dry land for a small piece of frontage, and she did not see public benefit to that exchange.

Mr. Stewart said he is willing to vary the proposal, and one suggestion is that instead of a fee simple land swap, the parties could do cross-easements that give clear access to the 10-15 feet of trail that crosses the Voellmans' property in exchange for an easement to the Voellmans to meet setbacks. Mr. Stewart said that there is room on the Voellmans property to put up a boardwalk and dock to meet the setback requirements, but as a wetlands scientist he wants to make sure that the dock is in the most secure place possible. There is better ground closer to the Town property, which causes the dock to get closer to the property line. Mr. Stanley noted that the property was in the Conservation Zone District, which means that the boardwalk has to meet the Town's 50-foot setback in addition to the State's 20-foot setback.

Chair Lyon asked if Mr. Stewart had considered moving the boardwalk away from the boundary, and Mr. Stewart said he would like a more secure and environmentally safe placement and to give the Voellmans peace of mind with respect to liability and give clear access to the Town for use of the trail. Ms. Levine said that liability is not an issue according to state law, but the property owner still has to be comfortable with public use of private property, so if the Voellmans are uncomfortable with the trail, the Conservation Commission has plans to move it.

Mr. Kaplan is concerned that the Town is placing the Voellmans in a position of hardship by not agreeing to swap land. Ms. Levine said that the Town did not create the hardship; the wetlands did. Mr. Stanley said the original plan complied with all of the setback requirements, but this proposal puts the boardwalk in a more desirable location for the Voellmans. He added that everyone wishes their water frontage were more useful. Ms. Levine said the Town was given land to act as a public steward and to keep the land from being developed. She asked if it is the Town's obligation to then provide land for the benefit of private development.

Chair Lyon summarized the discussion thus far. He said the property owners are clearly trying to accomplish something that currently does not meet the state's or town's setback requirements. Typically the Selectmen ask the Conservation Commission for its opinion and it is a rare occurrence when the Selectmen do not go along with it. He suggested that the Voellmans return to the Conservation Commission and have them make a recommendation to the Selectmen, in the hopes of finding a win-win proposal. He said he takes seriously Ms. Levine's concerns that the Selectmen are the stewards of public land and that land should not be given up unless there is a substantial public interest in doing so. He recommended that Mr. Stewart and the Voellmans return to the Conservation Commission to work something out.

Mr. Stewart asked if cross-easements would need Town Meeting approval, and Ms. Levine said that they would if they were to be permanent in nature. Mr. Stewart said that at the last Conservation Commission meeting, the Commission talked about their past practice with getting easements for the trail system. Ms. Levine said that the Commission has negotiated use easements for individual properties that make clear agreements between the parties, but those are not permanent easements and they can be revoked by either party. They are not meant to be permanent encumbrances on the land. Ms. Levine asked if the Voellmans could accomplish what they needed with an easement. Mr. Voellman said that the state would accept a letter from the Selectmen (as abutting property owners) waiving the setback requirement. Ms. Levine asked if the Voellmans' needs would be met with a variance and a letter from the abutter (Town) allowing the setback infringement, and Mr. Stewart said that they would except that the Voellmans still want to be protected from liability concerns. Ms. Levine said that easements would not prevent lawsuits,

and even with the trail easements that do exist, nothing prevents a person from bringing a claim against the Town or property owner. Ms. Clough suggested that if liability will remain a concern, perhaps it is most appropriate for the Conservation Commission to move the trail. Ms. Levine said she would forward to Mr. Stewart the e-mails regarding the liability issue that were sent between his client, the Conservation Commission, the Messer Pond Protective Association, and herself.

Mr. Stewart said his charge as a wetland scientist is to do the least amount of harm. He asked the Selectmen to consider the benefit of an established trail versus the impact of building a new trail and adding a boardwalk. Ms. Clough said that Mr. Stewart must be in a tough position, between his client and the town. He replied that all wetland scientists work for developers yet want to cause the least amount of impact. He wanted to keep this negotiation simple, with easements or land swaps. He would rather not see the Town have to change its trail, because he thinks the current access has value.

Chair Lyon recommended a meeting with the Conservation Commission, and thanked Mr. Stewart for attending this morning's meeting. Mr. Stewart departed at 8:50 AM.

Meeting Minutes: The Board of Selectmen approved the minutes of July 10, 2006.

Town Clerk/Tax Collector Update: At 9:00 AM, the Selectmen were joined by Town Clerk/Tax Collector Linda Hardy. Ms. Hardy said the date for sending tax liens to deed is this Friday, July 28, so she had wanted to discuss the possible deed properties with the Selectmen. There had been two properties that were eligible for deeding, but the bank paid the unpaid taxes on one property. The other has only \$343 uncollected, so she is fairly certain that it will be paid by the end of the week. She said this property gets to this point in the process every year, and generally the bank will step in to prevent the property from being deeded by the town. After some discussion about the deed process, Chair Lyon made a motion that pursuant to New Hampshire statute, if the unpaid bill is not paid by Friday, July 28, 2006, then Linda Hardy be authorized to start the deed process. Ms. Clough seconded the motion and it was approved 3-0.

Ms. Hardy said she is also at the point in the dog registration process where dog owners who had not registered their dogs would be brought to court for civil forfeiture. At this point, she is required by law to turn the list of unregistered dogs over to the police to be summonsed to court. The court could issue a fine of \$50 above the registration fee, which could be expensive for some property owners with more than one dog. The Selectmen noted that there were 16 dogs with 8 different owners. Ms. Clough made a motion for Ms. Hardy to contact the owners one last time prior to giving the list to the Police Department. Seconded by Mr. Kaplan and approved 3-0. Ms. Hardy said she also just received a notice of 38 dogs that had been vaccinated that are not on the Town's list of registered dogs. She will send the owners a notice informing them of the state dog registration laws.

Ms. Hardy informed the Selectmen that her office would be closed on Tuesday, July 25, for state election training at Whipple Town Hall. Ms. Hardy departed the meeting at 9:15 AM.

Citizen's Advisory Committee: Ms. Levine noted the CAC meeting scheduled for Saturday, July 29. The Selectmen will invite discussion on general town updates, rather than focusing on one single item.

Garden Club Request to Serve Alcohol: Ms. Levine referred to the request from the Garden Club to serve alcohol at its winter party at Tracy Library on December 2, 2006. The Board of Selectmen approved the request contingent on the Town's policy for alcohol on public property.

Legislative Process: Ms. Levine referred to the material from the New Hampshire Municipal Association summarizing the NHMA's proposed policy positions for the coming legislative season. Ms. Levine will attend the policy meeting in late September, and asked the Selectmen to review the proposals and let her know whether they agree with the policies or would like her to vote against them. This will be tabled to a later meeting.

Old Business:

Fiber Update: Ms. Levine said she met with the Hanover, Sunapee and Newbury managers on Thursday to discuss the fiber project and next steps. The final report should be delivered in early August, and the managers would like to convene a meeting with Selectmen from all eight towns. Ms. Levine asked the Selectmen for their schedules; the meeting would be in August, if possible.

Town Clock: Ms. Levine said the repairs to the Town Clock have been completed, and Bruce Parsons, on behalf of the Clock Watch Committee, proposed that the bell ring the hour between 8:00 AM – 8:00 PM. The Selectmen had agreed to that decision over e-mail, but Ms. Levine wanted to record that vote in the minutes. The Selectmen were unanimous in their agreement that the bells should ring during those hours.

Regional Pandemic Preparedness: Ms. Levine said that she, Health Officer Don Bent, and Emergency Management Director Michael Warning had attended the pandemic preparedness meeting in Newport on July 12, hosted by the Sullivan County manager. She said that Dr. Bent and Mr. Warning had stayed to participate in the planning committee, and it appeared that the group would work well together. Furthermore, she had spoken with Mary Miller, an Elkins resident who works for the Department of Health and Human Services, and it turns out that towns did not have an option to “go it alone.” The towns had to be affiliated with a region, and the Sullivan County region makes more sense because of the use of New London Hospital.

Website: Ms. Levine said the new website design is up and running, with great kudos to Kelsie Lee for learning the new program and creating the websites. She said the e-mail newsletter is also back on-line, though with a different appearance. DJ Lavoie said if the website is going to be used for meeting minutes, it would be helpful if the minutes were kept up-to-date. The minutes are not current. Ms. Levine said she was surprised as she thought the current minutes were there; she will look into it. She said she will add a link to the calendar page back to the meeting minutes page.

There being no further business, Chair Lyon moved to go into non-public session to discuss hiring of a public employee (per RSA 91-A:3 II (a) and real estate negotiation (per RSA 91-A:3 II (e)). Roll call vote: Lyon – yes; Clough – yes; Kaplan – yes.

Upon returning to public session, the Selectmen signed the documents below.

Building Permits:

- John and Carol Filbin, 137 Knollwood Drive (Map 035, Lot 030), one-year extension to complete porch – Approved (Permit 05-085)
- David Jason Crandall, 135 Old Route 11 (Map 056, Lot 021), permit to construct a summer season screened porch to be built on existing deck attached to house on water side within 50’ setback – Denied (Permit 06-069) referred to ZBA per Article XVI, H, 1, a & b.
- Olive Hadley Dorr, 70 Conifer Lane (Map 058, Lot 013-010), permit to add a sun porch with surrounding railing and steps leading off the porch – Approved (Permit 06-086)
- David Hale Trust, Newport Road (Map 058, Lot 026), permit to demolish old shed and erect a 16’ x 24’ shed at the same site – Approved (Permit 06-087)
- Town of New London, 1213 Newport Road (Map 056, Lot 008), permit to construct porch over rear loading dock at Transfer Station, no change of footprint – Approved (Permit 06-088)

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- David Jason Crandall, 135 Old Route 11 (Map 056, Lot 021), permit to replace window on second floor, replace windows in lakeside bedroom with three bay windows to match master bedroom directly below and to finish off roof above new bay window – Approved (Permit 06-089)
- Francis and Denise Olson, 23 Jenny Lane (Map 074, Lot 023), permit to build a 16' x 10' Master Bedroom – Approved (Permit 06-090)
- John Pope, 98 High Pine Lane (Map 044, Lot 010), permit to construct 42' x 8' ground level deck – Approved (Permit 06-092)
- John and Patricia Sheehan, 93 Checkerberry Lane (Map 044, Lot 020), permit to convert existing screened porch into winterized all season porch, remove existing interior wall between porch and living and dining room area, also, remove one tier of kitchen cabinets – Approved (Permit 06-093)
- William and Linda Hardy, 1462, King Hill Road (Map 129, Lot 026), permit to bump out front living room wall to add 10' x 17' to room – Approved (Permit 06-094)

Sign Permit Applications:

- Temporary Sign Permit Application for The Fells for a 6' sandwich board sign to be placed at the New London Information Booth indicating "Garden Tour" for Saturday, July 29, 2006 from 10:00 AM – 4:00 PM – Approved
- Permanent Sign Permit Application for Aristotle Souliotis, 384 Main Street (Map 084, Lot 002), for a 15 square foot sign indicating "New London Mini-Mart" to be attached to the building structure - Approved
- Permanent Sign Permit Application for Aristotle Souliotis, 384 Main Street (Map 084, Lot 002), for a 8 square foot sign indicating "Subway" to be attached to the building structure – Approved
- Permanent Sign for WFK Ice House Foundation, 91 Pleasant Street (Map 073, Lot 082), for a 4.5 square foot post and bracket sign to be placed at the left hand corner of driveway entering from Pleasant Street indicating "Bill Kidder's Collections" and "The WFK Ice House Foundation" - Approved

Other Items for Signature:

- Disbursement and Payroll Voucher for the week of July 17 and 24, 2006 – Approved
- State of New Hampshire Land Use Change Tax Warrant – Approved
- Current Use Penalties - Approved
- Application for Use of Whipple Memorial Town Hall by S.K.I.T. for "Christmas Carol" on December 11, 12, 13, 14, 2006 from 6 PM – 9 PM for rehearsal and December 15, 16, 17. 2006 from 8 PM – 4 PM for performance – Approved

Applications for Current Use:

Robert Brown, County Road (Map 105, Lot 028) – Approved

George and Richard Darrah Revocable Trust, Shaker Street (Map 098, Lot 014) – Approved

Calerin, LLC, 37 Main Street (Map 073, Lot 052) and (Map 060, Lot 014) – Approved

Robert W. Ewing Jr. Trust, Main Street (Map 096, Lot 015-006), (Map 096, Lot 015-004), (Map 096, Lot 015-003), (Map 096, Lot 015-002), (Map 096, Lot 015-001) – Approved

Jennifer Roy, Morgan Hill Road (Map 021, Lot 004)

John Skow, Old Main Street (Map 121, Lot 003-001) - Approved

Abatement Recommendations:

Donald and Susan Elliott, Shaker Street (Map 111, Lot 016) – Approved

Janewood Trust, 246 Lakeshore Drive (Map 036, Lot 012) - Approved

There being no further business, the Board of Selectmen adjourned the meeting at 10:20 AM.

Respectfully submitted,

Jessie W. Levine
Town Administrator