

BOARD OF SELECTMEN
Minutes of October 24, 2011

MEMBERS PRESENT: Mr. McLeod called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Kathleen DiFruscia and Roger Hohenberger were present, as was Town Administrator David Sullivan. Selectman Phil Lochiatto was delayed and arrived at 7:05 PM. Mr. McLeod opened with the Pledge of Allegiance.

PUBLIC HEARING EMERGENCY LANES: Mr. McLeod read the public hearing notice into the record. Mr. Sullivan explained that, for the last 30 years the town has historically plowed those approved subdivision roadways which were pending acceptance once one house was completed and occupied. Per statute, however, Town funds cannot be expended on a private function such as winter maintenance on unaccepted roads. Mr. Sullivan noted that the Community Development Director had brought this to the Board's attention again, and the Board must now decide whether, for legal purposes, to establish these roadways as Emergency Lanes for the purposes of winter maintenance only; with all other repairs/maintenance remaining the responsibility of the developer.

Mr. Sullivan noted that there are thirty one roadways currently in the process, and that the public need criteria for declaration as established by the Board includes the requirement to meet one of the following: be within a subdivision approved by the Planning Board and which was being plowed by the Town as of March 2, 2011; or school bus must pass over and through the private road in route to a public road; or the road provides fire trucks access to a water source. Mr. Sullivan noted that each of the roads in question currently meet the subdivision requirements, and are being plowed. He also noted that each of the roads meets town standards, and clarified the difference between the roads in question and truly private roads, such as pond roads, and reviewed the locations of the 31 roads under discussion on the town map.

Mr. Sullivan explained that, should the Board declare these roads as Emergency lanes, all owners would have to sign off as it pertained to liability, however, the Board can waive this provision. If the Board does not do so, and waivers are not received from all property owners involved, then the Town will not be able to plow the roads. Discussion ensued regarding waiving the provision and potential downsides thereof, potential liability, developer versus private ownership, and current policies regarding mailboxes.

Mr. Lochiatto then moved and Mr. Breton seconded to waive the requirements that all owners of property on said private way must sign an agreement releasing and waiving any liability against the Town, its agents, officers, servants or employees, and agreeing to indemnify and hold harmless the Town, its agents, servants, officers or employees, from any damages whatsoever. Motion was tabled to allow for public input.

Discussion ensued, with concerns expressed by residents Dave Angelini and Joe Miller regarding the requirement for signature, and the possibility of having the developers as opposed to owners sign off. Mr. Galen Stearns then approached seeking clarification of how the Board is meeting the requirements of RSA 269:32 as it pertained to an identifiable need. Mr. Sullivan replied that Town Counsel had reviewed the criteria and that the Board has the sole discretion to establish same. Discussion ensued, and Mr. Sullivan clarified that the motion on the table was to only waive the Town's requirement for a sign off from the owners. Further discussion ensued regarding this solution not being permanent in nature, and that the roads in question were approved with the intention of being public roads.

Community Development Director Laura Scott approached noting that the Planning Board has revised the subdivision regulations to, moving forward, require an escrow account from the developer for plowing purposes and as new roadways are approved emergency lane declarations will not be required. She then provided a status update on the roads in question, noting a few developers have been in regarding their paperwork since receiving the Town's letter and citing several with no activity. She noted the Department is working to clear the files.

Discussion ensued with input from residents Tom Fitzpatrick and Robin Chow regarding the waiver; the former agreeing that it should be the developer and Ms. Chow expressing concerns with future transfer of ownership from the developer to the owner. Mr. Sullivan clarified that the sign off would occur at the time of declaration, and is required to be done annually.

Chris Baker approached expressing concerns regarding the lack of activity as cited by Ms. Scott on acceptance of Porcupine Road. Ms. Scott clarified that she was referring to lack of activity in her Department to resolve the issue; and added that in the cases of non-responsive developers bonds are forfeited and the roadways completed by the Town. Discussion ensued regarding previously forfeited bonds and the unavailability of some developers to execute a waiver.

Jeff Martin approached expressing concerns regarding Settlers Ridge Road and the lack of activity; noting according to his developer the roadway should have been accepted several years ago. Ms. Scott reiterated that her citation of lack of activity equated to her not having worked on that particular road to resolve any issues.

Doug McDonald approached expressing concerns regarding Jenny's Hill Road. Ms. Scott clarified there are two developers involved; one having an expired bond and another an active bond still in place.

Mike Sweeny inquired about potholes that currently exist on Porcupine, and Mr. Sullivan clarified that such maintenance issues remain the developer's responsibility as the Town under an Emergency Lane declaration would only offer winter plowing/sanding maintenance.

Developer Everett Ryan approached to explain his road construction methodology and suggesting that, as it pertained to his roadways involved, he not be required to put down the finish coat of pavement until spring. Discussion ensued regarding potential issues with putting the finish coat on too soon, the estimated costs to plow these roads if declared emergency lanes, the Board's statutory authority, and the differences between private and unaccepted roads.

Shawn Mullen approached in support of the signature requirement, and also requested that the Board waive the requirement that the road must contain one or more individually owned and occupied residences that were constructed prior to March 2 2011; noting that he is the only resident on Nathan Road and he was unsure whether his house was actually completed prior to March 2.

Brief discussion ensued regarding the costs to plow these roads, which is approximately \$10K, and the overall requirements for sign offs.

Mr. Lochiatto then moved and Mr. Breton seconded to amend the motion on the table to include striking the requirement on page 7, #1, of the Unaccepted Roads policy as it pertained to construction prior to March 2, 2011. Discussion ensued regarding the number of unaccepted roads and developer motivation to complete them. Ms. Scott inquired whether the Board intended to waive the requirement for developers to sign off as well, and Mr. Lochiatto clarified that was not his intent. Mr. Breton noted it should be clarified that this waiver was in accordance with Section VI of the Snow Removal on Private/Unaccepted Streets policy, and Mr. Lochiatto concurred; and Mr. Hohenberger noted it should be clarified that the waiver of Section III, 3, g. of same pertained to only property owners. Mr. Lochiatto and Mr. Breton amended their motion and second accordingly.

Motion passed unanimously as amended.

Mr. Hohenberger then moved and Mr. Breton seconded that in the interest of providing for the safety of emergency personnel, and to provide safe access to other roadways and school busses to declare all roadways as posted as emergency lanes. Passed unanimously.

Mr. McLeod clarified that the Board had voted as such as it had found all roadways to be Emergency Lanes under statute. He then called for a five minute recess.

ANNOUNCEMENTS: None.

LIAISON REPORTS: None.

MINUTES: None.

CORRESPONDENCE: Right of Way permit request from East Coast Utilities on behalf of PSNH to install new underground electrical conduit via directional boring/trenching on Cardinal, Oriole and Sharon roads. Mr. Sullivan advised that this is in order to provide service to new roads, all bonds/escrow funds are in place, and the Highway Agent has no issue with the work. Mr. Hohenberger moved and Mrs. DiFruscia seconded to approve the permit as requested. Passed unanimously.

Right of Way permit request from CATV Construction on behalf of Comcast to trench across Farrwood Road to repair service to #4. Mr. Sullivan explained that this work had already been completed as an emergency repair, with no objection from the Highway Agent. Mr. Hohenberger moved and Mrs. DiFruscia seconded to approve the permit as requested. Passed unanimously.

OLD BUSINESS: Mr. Sullivan advised that the Department of Transportation had reviewed the driveway permit plans for the Griffin Park project, and requested a change in the area of the bio-retention pond. He noted there would be a donation coming forward from Jay Tokanel at the next meeting to facilitate this change, and that the project will begin as soon as the permit is released which is expected to be by week's end. Brief discussion ensued regarding the nature of the change, which Mr. Sullivan explained was a request for additional piping from the bio-retention pond to the catch basin on Range Road.

NEW BUSINESS: None.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Lochiatto seconded to enter into a non-public session in accordance with RSA 91-A:3, II d; to be followed by a non-meeting to discuss union matters. Roll call vote – all “yes”. The topic of discussion was land acquisition and the Board, Mr. Sullivan, Ms. Call, and Ms. Devlin were in attendance.

Mr. Sullivan updated the Board on a potential land swap. Mrs. DiFruscia moved and Mr. Breton seconded to support the land swap for the parcels as discussed. Passed unanimously.

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

Meeting was adjourned at 8:40 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

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